(Mr. CARPER) was added as a cosponsor of S. 429, a bill to expand the Manufacturing Extension Program to bring the new economy to small and medium-sized businesses.

S. 430

At the request of Mrs. CLINTON, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 430, a bill to provide incentives to promote broadband telecommunications services in rural America, and for other purposes.

S. 463

At the request of Mrs. FEINSTEIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 463, a bill to provide for increased access to HIV/AIDS-related treatments and services in developing foreign countries.

S. 466

At the request of Mr. HAGEL, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 466, a bill to amend the Individuals with Disabilities Education Act to fully fund 40 percent of the average per pupil expenditure for programs under part B of such Act.

S. 501

At the request of Mr. GRAHAM, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 501, a bill to amend titles IV and XX of the Social Security Act to restore funding for the Social Services Block Grant, to restore the ability of States to transfer up to 10 percent of TANF funds to carry out activities under such block grant, and to require an annual report on such activities by the Secretary of Health and Human Services.

S. 534

At the request of Mr. CAMPBELL, the names of the Senator from New York (Mr. SCHUMER), the Senator from Utah (Mr. HATCH), and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. 534, a bill to establish a Federal interagency task force for the purpose of coordinating actions to prevent the outbreak of bovine spongiform encephalopathy (commonly known as ''mad cow disease'') and foot-and-mouth disease in the United States.

S. 582

At the request of Mr. GRAHAM, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 582, a bill to amend titles XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immigrants under the medicaid and State children's health insurance program.

S. 599

At the request of Mr. ROBERTS, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 599, a bill to amend the Omnibus Trade and Competitiveness Act of 1988 to establish permanent trade negotiating and trade agreement implementing authority.

S. 604

At the request of Mr. COCHRAN, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 604, a bill to amend title III or the Elementary and Secondary Education Act of 1965 to provide for digital education partnerships.

S. 611

At the request of Ms. MIKULSKI, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 611, a bill to amend title II of the Social Security Act to provide that the reduction in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 643

At the request of Mr. BAUCUS, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 643, a bill to implement the agreement establishing a United States-Jordan free trade area.

S. 662

At the request of Mr. DODD, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 662, a bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to furnish headstones or markers for marked graves of, or to otherwise commemorate, certain individuals.

S. 683

At the request of Mr. SANTORUM, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 683, a bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and to establish State health insurance safety-net programs.

S. CON. RES. 14

At the request of Mr. CAMPBELL, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of it.

AMENDMENT NO. 174

At the request of Mr. GRASSLEY, the names of the Senator from Missouri (Mr. BOND) and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of amendment No. 174 proposed to H. Con. Res. 83, a concurrent resolution establishing the congressional budget for the United States Government for fiscal year 2002, revising the congressional budget for the United States Government for fiscal year 2001, and setting forth appropriate budgetary levels for each of fiscal years 2003 through 2011.

AMENDMENT NO. 176

At the request of Mr. CONRAD, the names of the Senator from Montana (Mr. BAUCUS) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of amendment No. 176 proposed to H. Con. Res. 83, a concurrent resolution establishing the congressional budget for the United States Government for fiscal year 2002, revising the congressional budget for the United States Government for fiscal year 2001, and setting forth appropriate budgetary levels for each of fiscal years 2003 through 2011.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TORRICELLI (for himself and Mr. CORZINE)

S. 687. A bill to amend the Internal Revenue Code of 1986 to make higher education more affordable by providing a tax deduction for higher education expenses, and for other purposes; to the Committee on Finance.

Mr. TORRICELLI. Mr. President, today, I rise to introduce the Higher Education Affordability and Fairness Act.

It is easy to forget that less than ten years ago this nation faced an endless stream of budget deficits. Today, through fiscal responsibility and the hard work and sacrifice of the American people, an unprecedented budget surplus has taken the place of annual deficits.

Clearly, there are many priorities to be addressed with this good fortune. The time has come to ease the tax burden on the American public through a reduction in tax rates. We must reserve a portion of the surplus for necessary investments in education, a prescription drug benefit, as well as a continuation of the progress we have made in reducing the national debt. Among those priorities we must include programs and policies to increase the affordability of a college education. I believe that this can be done through expanding tax credits and making college tuition tax deductible.

A college degree is becoming a prerequisite for the advanced skills that have become necessary in this global, information-based economy. And financially, a college education is integral to achieving middle-class earning power. In 1999, the average male college graduate earned 90 percent more than the average male high school graduate. In the late 1970's the difference in pay was only 50 percent.

While the benefits and the need of higher education have increased, so, too have the costs. In the last decade, the cost of sending a child to college has increased 40 percent, nearly two and a half times the rate of inflation.

Too often, the struggle to send a child to college consumes the budget of working families. In New Jersey, families spend anywhere from 30 to 50 percent of their incomes on college expenses, leaving little for the mortgage, medical bills, long-term care for a parent, or even a car payment.

In years past, Congress has sought to address college affordability by providing a HOPE Scholarship tax credit of up to $1,500 for the first two years of expenses and a Lifetime Learning tax credit of up to $1,000 for the third and fourth years as well as for graduate school. For low-income families, Congress has increased funding to $8.75 billion for Pell grants, a need-based grant program that will help send four million Americans to college this year.

But more can and should be done.

Under existing law, taxpayers cannot deduct higher education expenses from their taxes, unless the expenses meet a very narrow definition as ''work-related''. In addition, families living in high cost states like New Jersey or California do not receive the same benefits as those living in lower cost states because of unfair income limitations. Finally, a family who invests in an Education IRA cannot use the savings for a child's college education and also receive the benefits of the HOPE or Lifetime Learning tax credits. Today, I am introducing the Higher Education Affordability and Fairness Act, HEAFA, to address these issues.

HEAFA would allow families who take the HOPE tax credit to deduct up to the next $8,000 in tuition expenses not covered by the credit, capping the deduction at $15,000 in tuition expenses in one year if a family has more than one child in college. Families ineligible for the Hope Scholarship, due to its income limitations, would be able to deduct $5,000 of tuition costs.

The bill would also increase the Lifetime Learning credit to 20 percent of $10,000 of tuition, from the current 20 percent of $5,000, and provide families with the choice of taking either the credit or a deduction on up to $10,000 of tuition, $5,000 if a family earns more than $120,000 a year.

HEAFA would raise the phase-out limit for the HOPE credit to $60,000 for singles and $120,000 for couples, allowing more families to benefit.

In order to ensure that savings go to the intended beneficiaries, families and students, the bill directs an annual study to examine whether the federal income tax incentives to provide education assistance affect higher education tuition rates.

Finally, to address the needs of low-income families, the bill expresses the sense of the Senate that the maximum annual Pell Grant should be increased to $4,700 per student.

With so many families struggling today to pay their mortgages, afford the high cost of prescription drugs and contribute to the long-term care of their parents, helping families better afford college is the least we can do.

By Mr. WELLSTONE:

S. 690. A bill to amend title XVIII of the Social Security Act to expand and improve coverage of mental health services under the medicare program; to the Committee on Finance.

Mr. WELLSTONE. Mr. President, I rise today to reintroduce the Medicare Mental Health Modernization Act, a bill to improve the delivery of mental health services through the Medicare health care system. This improvement and modernization of mental health services in the Medicare system is long overdue. It has remained virtually unchanged since it was enacted by Congress in 1965. In the 36 years since then, the scientific breakthroughs in our understanding of mental illnesses and the vast improvements in medications and other effective treatments have dramatically changed our understanding and treatment of mental illness. Yet, the health care systems, both public and private, lag behind in the treatment of this potentially life-threatening disease. As we work to improve health care for all Americans, in all health care systems, the ever-growing population of older Americans make it all the more urgent that we bring the Medicare system into the 21st century, and bring mental health care to those in need.

Though often undetected and untreated, mental health problems among the elderly are widespread and life-threatening. Americans aged 65 years and older have the highest rate of suicide of any population in the United States. Sadly, these suicide rates increase with age. While this age group accounts for just 13 percent of the U.S. population, Americans 65 and older account for 20 percent of all suicide deaths. All too often, depression among the elderly is ignored or inappropriately treated. This disease, and other illnesses such as Alzheimer's disease, anxiety and late-life schizophrenia, can lead to severe impairment or death.

Major depression is strikingly prevalent among older people, with between 8 and 20 percent of older people in community-based studies showing symptoms of depression. Studies of patients in primary care settings show that up to 37 percent report such symptoms, although they often go untreated. Depression is not a ''normal'' part of aging, but a serious, debilitating disease. Almost 20 percent of individuals age 55 and older experience a serious mental disorder. What is most alarming is that most elderly suicide victims, 70 percent, have visited their primary care doctor in the month prior to their completed suicide. It is critical that the mental health expertise be provided within the Medicare system, and that screening, diagnosis, and treatment be provided in a timely manner.

Despite this need, Medicare coverage for mental health services is much more expensive for elderly patients than coverage for other outpatient services. In order to receive mental health care, seniors must pay, out of their own pockets, 50 percent of the cost of a visit to their mental health specialist, an extremely unfair burden to place on the elderly, who are so often facing other health or life difficulties as well. For all other health care services, the copayment for Medicare participants is 20 percent, not 50 percent.

We know that substance abuse, particularly of alcohol and prescription drugs, among adults 65 and older is one of the fastest growing health problems in the United States. With seventeen percent of this age group suffers from addiction or substance abuse. While addiction often goes undetected and untreated among older adults, aging and disability only makes the body more vulnerable to the effects of these drugs, further exacerbating underlying health problems, and creating a serious need for treatment that recognizes these vulnerabilities.

Medicare also provides health care coverage for non-elderly individuals who are disabled, through Social Security Disability Insurance, SSDI. According to the Health Care Financing Agency, HCFA, Medicare is the primary health care coverage for the 5 million non-elderly, disabled people on SSDI. More than 20 percent of these individuals have a diagnosis of mental illness and/or addiction, and also face severe discrimination in their mental health coverage.

What will this bill do? The Medicare Mental Health Modernization Act has several important components. First, the bill reduces the 50 percent copayment for mental health care to 20 percent, which makes the copayment equal to every other outpatient service in Medicare. This is straightforward, fair, and the right thing to do. By doing so, this provision will increase access to mental health care overall, especially for those who currently forego seeking treatment and find themselves suffering from worsening mental health conditions. Second, the bill adds intensive residential services to the Medicare mental health benefit package. This provision will give people suffering from diseases such as schizophrenia or Alzheimer's disease an alternative to going to nursing homes. Instead, they will be able to be cared for in their homes or in more appropriate residential settings. I also ask the Secretary for Health and Human Services to conduct a study of the current Medicare coverage criteria to determine the extent to which people with these forms of illnesses are receiving the appropriate care that is needed.

Finally, my bill expands the number of mental health professionals eligible to provide services through Medicare to include clinical social workers and licensed professional mental health counselors. Provision of adequate mental health services provided through Medicare requires more trained and experienced providers for the aging and growing population and should include those who are appropriately licensed and qualified to deliver such care.

These changes are needed now. The bill enjoys the strong support of many mental health groups including, among others, the National Alliance for the Mentally Ill, the National Mental Health Association, theAmerican Psychological Association, the National

Association of School Psychologists, the National Association of Social Workers, the American Association of Geriatric Psychiatry, the Bazelon Center for Mental Health Law, the International Association of Psychosocial Rehabilitation Services, the American Counseling Association, the American Mental Health Counselors Association, the Association for Ambulatory Behavioral Health, the American Association of Marriage and Family Therapists, the National Association of Psychiatric Health Systems, the American Association of Pastoral Counselors, the Association for the Advancement of Psychology, the National Association of County Behavioral Health Directors, the Tourette Syndrome Association, the National Association of Anorexia Nervosa and Associated Disorders, the Suicide Prevention and Advocacy Network, the Suicide Awareness/Voices of Education organization, the American Foundation for Suicide Prevention, the American Association of Suicidology, the Kristin Brooks Hope Center, the The National Hopeline Network 1–800–SUICIDE, the Suicide Prevention Services of Illinois, and the National Resource Center for Suicide Prevention and Aftercare. I commend these organizations and the American Psychiatric Association for their leadership role in fighting for improved mental health care coverage for seniors under Medicare.

U.S. Surgeon General David Satcher recognized the urgency of the problems with Medicare in his recent reports on mental health: ''Mental Health: A Report of the Surgeon General'' and ''The Surgeon General's Call to Action to Prevent Suicide''. Dr. Satcher stated, ''Disability due to mental illness in individuals over 65 years old will become a major public health problem in the near future because of demographic changes. In particular, dementia, depression and schizophrenia, among other conditions, will all present special problems for this age group.'' Dr. Satcher also underscored the life-threatening nature of this problem. He noted that the rate of major clinical depression and the incidence of suicide among senior citizens is alarmingly high. This report cites that about one-half of patients relocated to nursing homes from the community are at greater risk for depression. At the same time, the Surgeon General emphasizes that depression ''is not well-recognized or treated in primary care settings,'' and calls attention to the alarming fact that older people have the highest rates of suicide in the U.S. population. Contrary to what is widely believed, suicide rates actually increase with age, and, as the Surgeon General points out, ''depression is a foremost risk factor for suicide in older adults.''

Clearly, our nation must take steps to ensure that mental health care is easily and readily available under the Medicare program. The Medicare Mental Health Modernization Act of 2001 takes an important first step in that direction. It is time to take this potential fatal illness seriously. I believe we must do everything we can to make effective treatments available in a timely manner for older adults and others covered by Medicare, and help prevent relapse and recurrence once mental illness is diagnosed.

I urge my colleagues to support this bill as we begin our work in this new century. It is time to treat the elderly in our society, particularly those with serious, debilitating diseases, with the care, respect and fairness they deserve. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 690

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) IN GENERAL.—This Act may be cited as the ''Medicare Mental Health Modernization Act of 2001''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Older people have the highest rate of suicide of any population in the United States, and the suicide rate of that population increases with age, with individuals 65 and older accounting for 20 percent of all suicide deaths in the United States, while comprising only 13 percent of the population of the United States.

(2) Disability due to mental illness in individuals over 65 years old will become a major public health problem in the near future because of demographic changes. In particular, dementia, depression, schizophrenia, among other conditions, will all present special problems for this age group.

(3) Major depression is strikingly prevalent among older people, with between 8 and 20 percent of older people in community studies and up to 37 percent of those seen in primary care settings experiencing symptoms of depression.

(4) Almost 20 percent of the population of individuals age 55 and older, experience specific mental disorders that are not part of normal aging.

(5) Unrecognized and untreated depression, Alzheimer's disease, anxiety, late-life schizophrenia, and other mental conditions can be severely impairing and may even be fatal.

(6) Substance abuse, particularly the abuse of alcohol and prescription drugs, among adults 65 and older is one of the fastest growing health problems in the United States, with 17 percent of this age group suffering from addiction or substance abuse. While addiction often goes undetected and untreated among older adults, aging and disability makes the body more vulnerable to the effects of alcohol and drugs, further exacerbating other age-related health problems. Medicare coverage for addiction treatment of the elderly needs to recognize these special vulnerabilities.

(7) The disabled are another population receiving inadequate mental health care through medicare. According to the Health Care Financing Administration, medicare is the primary health care coverage for the 5,000,000 non-elderly, disabled people on Social Security Disability Insurance. Up to 40 percent of these individuals have a diagnosis of mental illness.

(8) The current medicare benefit structure discriminates against the millions of Americans who suffer from mental illness and maintains an outdated bias toward institutionally based service delivery. According to the report of the Surgeon General on mental health for 1999, intensive outpatient services, such as psychiatric rehabilitation and assertive community treatment, represent state-of-the-art mental health services. These evidence-based community support services help people with psychiatric disabilities improve their ability to function in the community and reduce hospitalization rates by 30 to 60 percent, even for people with the most severe mental illnesses.

TITLE I—ESTABLISHING PARITY FOR MENTAL HEALTH SERVICES

SEC. 101. ELIMINATION OF LIFETIME LIMIT ON INPATIENT MENTAL HEALTH SERVICES.

(a) IN GENERAL.—Section 1812 of the Social Security Act (42 U.S.C. 1395d) is amended—

(1) in subsection (b)—

(A) by adding ''and'' at the end of paragraph (1);

(B) by striking ''; and'' at the end of paragraph (2); and

(C) by striking paragraph (3); and

(2) by striking subsection (c).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to items and services furnished on or after January 1, 2002.

SEC. 102. PARITY IN TREATMENT FOR OUTPATIENT MENTAL HEALTH SERVICES.

(a) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by striking subsection (c).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items and services furnished on or after January 1, 2002.

TITLE II—EXPANDING COVERAGE OF COMMUNITY-BASED MENTAL HEALTH SERVICES

SEC. 201. COVERAGE OF INTENSIVE RESIDENTIAL SERVICES.

(a) COVERAGE UNDER PART A.—Section 1812(a) of the Social Security Act (42 U.S.C. 1395d(a)) is amended—

(1) by striking ''and'' at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(5) intensive residential services (as defined in section 1861(ww)) furnished to an individual for up to 120 days during any calendar year, except that such services may be furnished to the individual for additional days (not to exceed 20 days) during the year if necessary for the individual to complete a course of treatment.''.

(b) SERVICES DESCRIBED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by sections 102(b) and 105(b) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554, is amended by adding at the end the following new subsection:

''Intensive Residential Services

''(ww)(1) Subject to paragraphs (3) and (4), the term 'intensive residential services' means a program of residential services (described in paragraph (2)) that is—

''(A) prescribed by a physician for an individual entitled to benefits under part A who is under the care of the physician; and

''(B) furnished under the supervision of a physician pursuant to an individualized, written plan of treatment established and periodically reviewed by a physician (in consultation with appropriate staff participating in such services), which plan sets forth—

''(i) the individual's diagnosis,

''(ii) the type, amount, frequency, and duration of the items and services provided under the plan, and

''(iii) the goals for treatment under the plan.

In the case of such an individual who is receiving qualified psychologist services (as defined in subsection (ii)), the individual may be under the care of the clinical psychologist with respect to such services under this subsection to the extent permitted under State law.

''(2) The program of residential services described in this paragraph is a nonhospital-based community residential program that furnishes acute mental health services or substance abuse services, or both, on a 24-hour basis. Such services shall include treatment planning and development, medication management, case management, crisis intervention, individual therapy, group therapy, and detoxification services. Such services shall be furnished in any of the following facilities:

''(A) Crisis residential programs or mental illness residential treatment programs.

''(B) Therapeutic family or group treatment homes.

''(C) Residential detoxification centers.

''(D) Residential centers for substance abuse treatment.

''(3) No service may be treated as an intensive residential service under paragraph (1) unless the facility at which the service is provided—

''(A) is legally authorized to provide such service under the law of the State (or under a State regulatory mechanism provided by State law) in which the facility is located or meets such certification requirements that the Secretary may impose; and

''(B) meets such other requirements as the Secretary may impose to assure the quality of the intensive residential services provided.

''(4) No service may be treated as an intensive residential service under paragraph (1) unless the service is furnished in accordance with standards established by the Secretary for the management of such services.''.

(c) AMOUNT OF PAYMENT.—Section 1814 of the Social Security Act (42 U.S.C. 1395f) is amended—

(1) in subsection (b) in the matter preceding paragraph (1), by inserting ''other than intensive residential services,'' after ''hospice care,''; and

(2) by adding at the end the following new subsection:

''Payment for Intensive Residential Services

''(m)(1) The amount of payment under this part for intensive residential services under section 1812(a)(5) shall be equal to an amount specified under a prospective payment system established by the Secretary, taking into account the prospective payment system to be established for psychiatric hospitals under section 124 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (113 Stat. 1501A–332), as enacted into law by section 1000(a)(6) of Public Law 106–113.

''(2) Prior to the date on which the Secretary implements the prospective payment system established under paragraph (1), the amount of payment under this part for such intensive residential services is the reasonable costs of providing such services.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 2002.

SEC. 202. COVERAGE OF INTENSIVE OUTPATIENT SERVICES.

(a) COVERAGE.—Section 1832(a)(2) of the Social Security Act (42 U.S.C. 1395k(a)(2)) is amended—

(1) in subparagraph (I), by striking ''and'' at the end;

(2) in subparagraph (J), by striking the period and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(K) intensive outpatient services (as described in section 1861(xx)).''.

(b) SERVICES DESCRIBED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by section 202(b), is further amended by adding at the end the following new subsection:

''Intensive Outpatient Services

''(xx)(1) The term 'intensive outpatient services' means the items and services described in paragraph (2) prescribed by a physician and provided within the context described in paragraph (3) under the supervision of a physician (or, to the extent permitted under the law of the State in which the services are furnished, a non-physician mental health professional) pursuant to an individualized, written plan of treatment established by a physician and is reviewed periodically by a physician or, to the extent permitted under the laws of the State in which the services are furnished, a non-physician mental health professional (in consultation with appropriate staff participating in such services), which plan sets forth the patient's diagnosis, the type, amount, frequency, and duration of the items and services provided under the plan, and the goals for treatment under the plan.

''(2)(A) The items and services described in this paragraph the items and services described in subparagraph (B) that are reasonable and necessary for the diagnosis or treatment of the individual's condition, reasonably expected to improve or maintain the individual's condition and functional level and to prevent relapse or hospitalization, and furnished pursuant to such guidelines relating to frequency and duration of services as the Secretary shall by regulation establish (taking into account accepted norms of clinical practice).

''(B) For purposes of subparagraph (A), the items and services described in this paragraph are as follows:

''(i) Psychiatric rehabilitation.

''(ii) Assertive community treatment.

''(iii) Intensive case management.

''(iv) Day treatment for individuals under 21 years of age.

''(v) Ambulatory detoxification.

''(vi) Such other items and services as the Secretary may provide (but in no event to include meals and transportation).

''(3) The context described in this paragraph for the provision of intensive outpatient services is as follows:

''(A) Such services are furnished in a facility, home, or community setting.

''(B) Such services are furnished—

''(i) to assist the individual to compensate for, or eliminate, functional deficits and interpersonal and environmental barriers created by the disability; and

''(ii) to restore skills to the individual for independent living, socialization, and effective life management.

''(C) Such services are furnished by an individual or entity that—

''(i) is legally authorized to furnish such services under State law (or the State regulatory mechanism provided by State law) or meets such certification requirements that the Secretary may impose; and

''(ii) meets such other requirements as the Secretary may impose to assure the quality of the intensive outpatient services provided.''.

(c) PAYMENT.—

(1) IN GENERAL.—With respect to intensive outpatient services (as defined in section 1861(xx)(1) of the Social Security Act (as added by subsection (b)) furnished under the medicare program, the amount of payment under such Act for such services shall be 80 percent of—

(A) during 2002 and 2003, the reasonable costs of furnishing such services; and

(B) on or after January 1, 2004, the amount of payment established for such services under the prospective payment system established by the Secretary under paragraph (2) for such services.

(2) ESTABLISHMENT OF PPS.—

(A) IN GENERAL.—With respect to intensive outpatient services (as defined in section 1861(xx)(1) of the Social Security Act (as added by subsection (b)) furnished under the medicare program on or after January 1, 2004, the Secretary of Health and Human Services shall establish a prospective payment system for payment for such services. Such system shall include an adequate patient classification system that reflects the differences in patient resource use and costs, shall provide for an annual update to the rates of payment established under the system.

(B) ADJUSTMENTS.—In establishing the system under subparagraph (A), the Secretary shall provide for adjustments in the prospective payment amount for variations in wage and wage-related costs, case mix, and such other factors as the Secretary determines appropriate.

(C) COLLECTION OF DATA AND EVALUATION.—In developing the system described in subparagraph (A), the Secretary may require providers of services under the medicare program to submit such information to the Secretary as the Secretary may require to develop the system, including the most recently available data.

(D) REPORTS TO CONGRESS.—Not later than October 1 of each of 2002 and 2003, the Secretary shall submit to Congress a report on the progress of the Secretary in establishing the prospective payment system under this paragraph.

(d) CONFORMING AMENDMENTS.—(1) Section 1835(a)(2) of the Social Security Act (42 U.S.C. 1395n(a)(2)) is amended—

(A) in subparagraph (E), by striking ''and'' at the end;

(B) in subparagraph (F), by striking the period and inserting ''; and

(C) by inserting after subparagraph (F) the following new subparagraph:

''(G) in the case of intensive outpatient services, (i) that those services are reasonably expected to improve or maintain the individual's condition and functional level and to prevent relapse or hospitalization, (ii) an individualized, written plan for furnishing such services has been established by a physician and is reviewed periodically by a physician or, to the extent permitted under the laws of the State in which the services are furnished, a non-physician mental health professional, and (iii) such services are or were furnished while the individual is or was under the care of a physician or, to the extent permitted under the law of the State in which the services are furnished, a non-physician mental health professional.''.

(2) Section 1861(s)(2)(B) of such Act (42 U.S.C. 1395x(s)(2)(B)) is amended by inserting ''and intensive outpatient services'' after ''partial hospitalization services''.

(3) Section 1861(ff)(1) of such Act (42 U.S.C. 1395x(ff)(1)) is amended—

(A) by inserting ''or, to the extent permitted under the law of the State in which the services are furnished, a non-physician mental health professional,'' after ''under the supervision of a physician'' and after ''periodically reviewed by a physician''; and

(B) by striking ''physician's'' and inserting ''patient's''.

(4) Section 1861(cc) of such Act (42 U.S.C. 1395x(cc)) is amended—

(A) in paragraph (1), by striking ''physician—'' and inserting ''physician or, to the extent permitted under the law of the State in which the services are furnished, a non-physician mental health professional—'' and

(B) in paragraph (2)(E), by inserting before the semicolon the following: '', except that a patient receiving social and psychological services under paragraph (1)(D) may be under the care of a non-physician mental health professional with respect to such services to the extent permitted under the law of the State in which the services are furnished''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 2002.

TITLE III—IMPROVING BENEFICIARY ACCESS TO MEDICARE-COVERED SERVICES

SEC. 301. EXCLUDING CLINICAL SOCIAL WORKER SERVICES FROM COVERAGE UNDER THE MEDICARE SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEM AND CONSOLIDATED PAYMENT.

(a) IN GENERAL.—Section 1888(e)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)) is amended by inserting ''clinical social worker services,'' after ''qualified psychologist services,''.

(b) CONFORMING AMENDMENT.—Section 1861(hh)(2) of the Social Security Act (42 U.S.C. 1395x(hh)(2)) is amended by striking ''and other than services furnished to an inpatient of a skilled nursing facility which the facility is required to provide as a requirement for participation''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 2002.

SEC. 302. COVERAGE OF MARRIAGE AND FAMILY THERAPIST SERVICES.

(a) COVERAGE OF SERVICES.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as amended by sections 102(a) and 105(a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554, is amended—

(1) by striking ''and'' at the end of subparagraph (U);

(2) by inserting ''and'' at the end of subparagraph (V); and

(3) by adding at the end the following new subparagraph:

''(W) marriage and family therapist services (as defined in subsection (yy));''.

(b) DEFINITION.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by sections 201(b) and 202(b), is further amended by adding at the end the following new subsection:

''Marriage and Family Therapist Services

''(yy)(1) The term 'marriage and family therapist services' means services performed by a marriage and family therapist (as defined in paragraph (2)) for the diagnosis and treatment of mental illnesses, which the marriage and family therapist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed provided such services are covered under this title, as would otherwise be covered if furnished by a physician or as incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

''(2) The term 'marriage and family therapist' means an individual who—

''(A) possesses a master's or doctoral degree which qualifies for licensure or certification as a marriage and family therapist pursuant to State law;

''(B) after obtaining such degree has performed at least two years of clinical supervised experience in marriage and family therapy; and

''(C) is licensed or certified as a marriage and family therapist in the State in which marriage and family therapist services are performed.''.

(c) PROVISION FOR PAYMENT UNDER PART B.—Section 1832(a)(2)(B) of the Social Security Act (42 U.S.C. 1395k(a)(2)(B)) is amended by adding at the end the following new clause:

''(v) marriage and family therapist services;''.

(d) AMOUNT OF PAYMENT.—

(1) IN GENERAL.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)), as amended by sections 105(c) and 223(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554, is amended—

(A) by striking ''and'' before ''(U)''; and

(B) by inserting before the semicolon at the end the following: '', and (V) with respect to marriage and family therapist services under section 1861(s)(2)(W), the amounts paid shall be 80 percent of the lesser of (i) the actual charge for the services or (ii) 75 percent of the amount determined for payment of a psychologist under clause (L)''.

(2) DEVELOPMENT OF CRITERIA WITH RESPECT TO CONSULTATION WITH A PHYSICIAN.—The Secretary of Health and Human Services shall, taking into consideration concerns for patient confidentiality, develop criteria with respect to payment for marriage and family therapist services for which payment may be made directly to the marriage and family therapist under part B of title XVIII of the Social Security Act under which such a therapist must agree to consult with a patient's attending or primary care physician in accordance with such criteria.

(e) EXCLUSION OF MARRIAGE AND FAMILY THERAPIST SERVICES FROM SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEM.—Section 1888(e)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)), as amended in section 301(a), is further amended by inserting ''marriage and family therapist services (as defined in subsection (yy)(1)),'' after ''clinical social worker services,''.

(f) COVERAGE OF MARRIAGE AND FAMILY THERAPIST SERVICES PROVIDED IN RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking ''or by a clinical social worker (as defined in subsection (hh)(1)),,'' and inserting '', by a clinical social worker (as defined in subsection (hh)(1)), or by a marriage and family therapist (as defined in subsection (yy)(2)),''.

(g) INCLUSION OF MARRIAGE AND FAMILY THERAPISTS AS PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Section 1842(b)(18(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)), as amended by section 105(d) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554, is amended by adding at the end the following new clause:

''(vii) A marriage and family therapist (as defined in section 1861(yy)(2)).''.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 2002.

SEC. 303. COVERAGE OF MENTAL HEALTH COUNSELOR SERVICES.

(a) COVERAGE OF SERVICES.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as amended in section 302(a), is further amended—

(1) by striking ''and'' at the end of subparagraph (V);

(2) by inserting ''and'' at the end of subparagraph (W); and

(3) by adding at the end the following new subparagraph:

''(X) mental health counselor services (as defined in subsection (zz)(2));''.

(b) DEFINITION.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by sections 201(b), 202(b), and 302(b), is further amended by adding at the end the following new subsection:

''Mental Health Counselor; Mental Health Counselor Services

''(zz)(1) The term 'mental health counselor' means an individual who—

''(A) possesses a master's or doctor's degree in mental health counseling or a related field;

''(B) after obtaining such a degree has performed at least 2 years of supervised mental health counselor practice; and

''(C) is licensed or certified as a mental health counselor or professional counselor by the State in which the services are performed.

''(2) The term 'mental health counselor services' means services performed by a mental health counselor (as defined in paragraph (1)) for the diagnosis and treatment of mental illnesses which the mental health counselor is legally authorized to perform under State law (or the State regulatory mechanism provided by the State law) of the State in which such services are performed provided such services are covered under this title as would otherwise be covered if furnished by a physician or as incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.''.

(c) PAYMENT.—

(1) IN GENERAL.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 13951(a)(1)), as amended by section 302(d), is further amended—

(A) by striking ''and'' before ''(V)''; and

(B) by inserting before the semicolon at the end the following: '', and (W) with respect to mental health counselor services

under section 1861(s)(2)(X), the amounts paid shall be 80 percent of the lesser of (i) the actual charge for the services or (ii) 75 percent of the amount determined for payment of a psychologist under clause (L)''.

(2) DEVELOPMENT OF CRITERIA WITH RESPECT TO CONSULTATION WITH A PHYSICIAN.—The Secretary of Health and Human Services shall, taking into consideration concerns for patient confidentiality, develop criteria with respect to payment for mental health counselor services for which payment may be made directly to the mental health counselor under part B of title XVIII of the Social Security Act under which such a counselor must agree to consult with a patient's attending or primary care physician in accordance with such criteria.

(d) EXCLUSION OF MENTAL HEALTH COUNSELOR SERVICES FROM SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEM.—Section 1888(e)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)), as amended by sections 301(a) and 302(e), is further amended by inserting ''mental health counselor services (as defined in section 1861(zz)(2)),'' after ''marriage and family therapist services (as defined in subsection (yy)(1)),''.

(e) COVERAGE OF MENTAL HEALTH COUNSELOR SERVICES PROVIDED IN RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)), as amended by section 302(f), is further amended—

(1) by striking ''or'' before ''marriage and family therapist services''; and

(2) by inserting ''or mental health counselor services (as defined in section 1861(zz)(2)),'' after ''marriage and family therapist services (as defined in subsection (yy)(1)),''.

(f) INCLUSION OF MENTAL HEALTH COUNSELORS AS PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)), as amended by section 302(g), is further amended by adding at the end the following new clause:

''(viii) A mental health counselor (as defined in section 1861(zz)(1)).''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 2002.

SEC. 304. STUDY OF COVERAGE CRITERIA FOR ALZHEIMER'S DISEASE AND RELATED MENTAL ILLNESSES.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall conduct a study to determine whether the criteria for coverage of any therapy service (including occupational therapy services and physical therapy services) or any outpatient mental health care service under the medicare program under title XVIII of the Social Security Act unduly restricts the access of any medicare beneficiary who has been diagnosed with Alzheimer's disease or a related mental illness to such a service because the coverage criteria requires the medicare beneficiary to display continuing clinical improvement to continue to receive the service.

(2) DETERMINATION OF NEW COVERAGE CRITERIA.—If the Secretary determines that the coverage criteria described in paragraph (1) unduly restricts the access of any medicare beneficiary to the services described in such paragraph, the Secretary shall identify alternative coverage criteria that would permit a medicare beneficiary who has been diagnosed with Alzheimer's disease or a related mental illness to receive coverage for health care services under the medicare program that are designed to control symptoms, maintain functional capabilities, reduce or deter deterioration, and prevent or reduce hospitalization of the beneficiary.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the committees of jurisdiction of Congress a report on the study conducted under subsection (a) together with such recommendations for legislative and administrative action as the Secretary determines appropriate.

By Mr. REID (for himself and Mr. ENSIGN):

S. 691. A bill to direct the Secretary of Agriculture to convey certain land in the Lake Tahoe Basin Management Unit, Nevada, to the Secretary of the Interior, in trust for the Washoe Indian Tribe of Nevada and California; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, I rise today to introduce the Washoe Tribe Lake Tahoe Access Act.

I introduced this bill in the 106th Congress, and it passed in the Senate with unanimous consent. The bill subsequently passed the House with unrelated amendments. Unfortunately, due to a shortage of time, the two versions of the bill were never reconciled and neither version became law. Although the bill was introduced just last year, it has a much longer history to it. In 1997, I help convene a Presidential Forum to discuss the future of the Lake Tahoe basin. A diverse group of Federal, State, and local government leaders addressed the challenges facing the extraordinary natural, recreational, and ecological resources of the Lake Tahoe region. Goals and an action plan developed during the Lake Tahoe Forum were codified as ''Presidential Forum Deliverables''. These Deliverables include a commitment to support the traditional and customary use of the Lake Tahoe basin by the Washoe Tribe. Perhaps, most importantly, the Deliverables include a provision designed to provide the Washoe Tribe access to the shore of Lake Tahoe for cultural purposes.

The ancestral homeland of the Washoe Tribe of Nevada and California included an area of over 5,000 square miles in and around the Lake Tahoe basin. The purpose of this Act is to ensure that the members of the Washoe Tribe have the opportunity to engage in traditional and customary cultural practices on the shore of Lake Tahoe including spiritual renewal, land stewardship, Washoe horticultural and ethno-botany, subsistence gathering, traditional learning, and reunification of tribal and family bonds forever. The parties that participated in the Lake Tahoe Presidential Forum endorsed this important bill, and nearly four years later, the concept embodied by this bill continues to enjoy broad support. For example, the Lake Tahoe Gaming Alliance had indicated its support for this bill. The lands conveyed by this bill to the Washoe Tribe would be managed in accordance with the Lake Tahoe Regional Plan, and would not preclude or hinder public access around the lake.

This act will convey 24.3 acres from the Secretary of Agriculture to the Secretary of the Interior to be held in trust for the Washoe Tribe. This is land located within the Lake Tahoe Management Unit north of Skunk Harbor, Nevada. The land in question would be conveyed with the expectation that it would be used for traditional and customary uses, and stewardship conservation of the Washoe Tribe, and will not permit any commercial use. The provision of this bill prohibiting development of this land was specifically requested by leaders of the Washoe Tribe. The bill provides that if the Tribe attempts to exploit the land for any commercial development purpose, title to the land will revert to the Secretary of Agriculture. Again this is a safeguard, not just agreed to by the Washoe Tribe, but suggested by them. Finally, I would like to highlight the fact that Senator ENSIGN of Nevada joins me today to introduce this important bill. I know that Senator ENSIGN values the wonders of Lake Tahoe, and his support for this bill will help ensure that the Washoe Tribe will one day call the shores of Lake Tahoe home once again.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 691

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WASHOE TRIBE LAND CONVEYANCE.

(a) FINDINGS.—Congress finds that—

(1) the ancestral homeland of the Washoe Tribe of Nevada and California (referred to in this Act as the ''Tribe'') included an area of approximately 5,000 square miles in and around Lake Tahoe, California and Nevada, and Lake Tahoe was the heart of the territory;

(2) in 1997, Federal, State, and local governments, together with many private landholders, recognized the Washoe people as indigenous people of Lake Tahoe Basin through a series of meetings convened by those governments at 2 locations in Lake Tahoe;

(3) the meetings were held to address protection of the extraordinary natural, recreational, and ecological resources in the Lake Tahoe region;

(4) the resulting multiagency agreement includes objectives that support the traditional and customary uses of National Forest System land by the Tribe; and

(5) those objectives include the provision of access by members of the Tribe to the shore of Lake Tahoe in order to reestablish traditional and customary cultural practices.

(b) PURPOSES.—The purposes of this Act are—

(1) to implement the joint local, State, tribal, and Federal objective of returning the Tribe to Lake Tahoe; and

(2) to ensure that members of the Tribe have the opportunity to engage in traditional and customary cultural practices on the shore of Lake Tahoe to meet the needs of spiritual renewal, land stewardship, Washoe horticulture and ethnobotany, subsistence gathering, traditional learning, and reunification of tribal and family bonds.

(c) CONVEYANCE ON CONDITION SUBSEQUENT.—Subject to valid existing rights, the easement reserved under subsection (d), and the condition stated in subsection (e), the Secretary of Agriculture shall convey to the Secretary of the Interior, in trust for the Tribe, for no consideration, all right, title, and interest in the parcel of land comprising approximately 24.3 acres, located within the Lake Tahoe Basin Management Unit north of Skunk Harbor, Nevada, and more particularly described as Mount Diablo Meridian, T15N, R18E, section 27, lot 3.

(d) EASEMENT.—

(1) IN GENERAL.—The conveyance under subsection (c) shall be made subject to reservation to the United States of a nonexclusive easement for public and administrative access over Forest Development Road #15N67 to National Forest System land, to be administered by the Secretary of Agriculture.

(2) ACCESS BY INDIVIDUALS WITH DISABILITIES.—The Secretary of Agriculture shall provide a reciprocal easement to the Tribe permitting vehicular access to the parcel over Forest Development Road #15N67 to—

(A) members of the Tribe for administrative and safety purposes; and

(B) members of the Tribe who, due to age, infirmity, or disability, would have difficulty accessing the conveyed parcel on foot.

(e) CONDITION ON USE OF LAND.—

(1) IN GENERAL.—In using the parcel conveyed under subsection (c), the Tribe and members of the Tribe—

(A) shall limit the use of the parcel to traditional and customary uses and stewardship conservation for the benefit of the Tribe;

(B) shall not permit any permanent residential or recreational development on, or commercial use of, the parcel (including commercial development, tourist accommodations, gaming, sale of timber, or mineral extraction); and

(C) shall comply with environmental requirements that are no less protective than environmental requirements that apply under the Regional Plan of the Tahoe Regional Planning Agency.

(2) TERMINATION AND REVERSION.—If the Secretary of the Interior, after notice to the Tribe and an opportunity for a hearing, based on monitoring of use of the parcel by the Tribe, makes a finding that the Tribe has used or permitted the use of the parcel in violation of paragraph (1) and the Tribe fails to take corrective or remedial action directed by the Secretary of the Interior—

(A) title to the parcel in the Secretary of the Interior, in trust for the Tribe, shall terminate; and

(B) title to the parcel shall revert to the Secretary of Agriculture.

By Mr. HELMS:

S. 692. A bill to issue a certificate of documentation for the vessel *Eagle:* to the Committee on Commerce, Science, and Transportation.

Mr. HELMS. Mr. President, today I sending to the desk S. 692, a bill that would grant a waiver of the so-called Jones Act to the Scour Barge *Eagle*, a ship owned by the State of North Carolina. Enactment of this essential legislation will enable the *Eagle* to clear silt buildup on the river bottom along the dock and wharf facilities of the North Carolina State Ports Authority.

The Scour Barge *Eagle* is an old U.S. Army barge outfitted with a pump and pipe system, commonly known as a ''scour jet.'' The ship directs pressured water at silt build-up points along areas adjacent to the docking facilities of the North Carolina State Ports Authority in Wilmington. Proper drafts at berths along the docking facilities must be maintained in order for ships to on-load and off-load cargo, especially bulk cargos.

While it is clearly documented that the Scour Barge *Eagle* was built by Peden Steel Company in Raleigh, around 1943, this legislation is nevertheless essential because the State of North Carolina is unable to establish a continuous title chain. In the past Congress has passed similar legislation to grant Jones Act waivers so that similar vessels could operate in the coastwise trades.

Mr. President, a bill identical to the one I'm offering today was incorporated into S. 1089, the Coast Guard Authorization Act of 2000, which the Senate approved by unanimous consent last year. The House failed to pass the Senate bill, making it necessary to reintroduce this bill as I am doing today.

I do hope that the Senate will swiftly adopt this legislation. I ask unanimous consent that a copy of the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 692

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTIFICATE OF DOCUMENTATION FOR THE EAGLE.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), chapter 121 of title 46, United States Code, and section 1 of the Act of May 28, 1906 (46 U.S.C. App. 292), the Secretary of Transportation shall issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel EAGLE (hull number BK–1754, United States official number 1091389) if the vessel—

(1) is owned by a State, a political subdivision of a State, or a public authority chartered by a State;

(2) if chartered, is chartered to a State, a political subdivision of a State, or a public authority chartered by a State;

(3) is operated only in conjunction with—

(A) scour jet operations; or

(B) dredging services adjacent to facilities owned by the State, political subdivision, or public authority; and

(4) is externally identified clearly as a vessel of that State, subdivision, or authority.

By Mr. GRASSLEY (for himself, Mr. BREAUX, and Mr. BURNS):

S. 693. A bill to amend the Social Security Act to provide additional safeguards for beneficiaries with representative payees under the Old-Age, Survivors, and Disability Insurance program or the Supplemental Security Income program; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I rise today to introduce legislation aimed at protecting Social Security benefits of some of the most vulnerable people in our society.

Today, I am introducing, along with my colleagues Senator BREAUX and Senator BURNS, the Social Security Beneficiaries Protection Act of 2001. This legislation, identical to legislation introduced in the 106th Congress, is meant to provide additional safeguards for beneficiaries with organizational representative payees. Sometimes, beneficiaries are not capable of managing their benefits on their own. Usually, in these situations, a family member or close friend manages their benefits for them. However, there are those who, for whatever reason, don't have family or friends who are able to act as the representative payee. In those cases an organizational representative payee can handle their benefit checks.

Approximately, 750,000 Social Security beneficiaries have an organization handling their monthly checks. These organizations include social service agencies, banks and hospitals. Most of these organizations provide a much needed service.

However, in the spring of last year, the Senate Special Committee on Aging, which I chaired at the time, held a hearing examining the fraudulent misuse of benefits by some organizational representative payees. The hearing highlighted the findings of an investigation conducted by the Social Security Administration's, SSA, Office of Inspector General, OIG. James Huse, Inspector General for SSA testified that since fiscal year 1998 the Social Security Administration has identified over $7.5 million in losses to beneficiaries. In several of those cases, hundreds of individuals were victims of severe abuses by organizational representative payees.

Another witness at the hearing, Ms. Betty Byrd testified to the hardship that is placed on a beneficiary who is the victim of a dishonest representative payee. Ms. Byrd was 70 years old and required a representative payee because of an extended hospital stay 100 miles from her home, followed by placement in an assisted living facility. Her fee-for-service organizational representative payee, Greg Gamble, was responsible for collecting Ms. Byrd's benefits and paying her utility bills, medical expenses, and rent. However, Mr. Gamble had his own ideas for how to spend Ms. Byrd's money. He stopped paying her rent and as a result she was forced to sell her trailer. The power was turned off because he stopped paying her utility bills. Her care facility informed her that Mr. Gamble was several months behind on her payments. The nursing home threatened to evict her. In her own words she was left, ''almost homeless, without medical care, and in serious financial trouble.'' Mr. Gamble was caught and pled guilty to using his clients' benefits for his own purposes. He has agreed to pay back $303,314.

The primary purpose of this legislation, which is based on recommendations by Social Security Administration Office of Inspector General, is to provide immediate relief to victims of representative payee fraud. By providing SSA with the authority to re-

issue benefits victims would be made whole again.

This legislation would also provide for additional accountability by payees to the SSA in an effort to prevent abuses from taking place in the future. While the Social Security Administration does have a selection process in place, it needs strengthening.

The Social Security Beneficiaries Protection Act of 2001 would require that non-governmental fee-for-service organizational representative payees be licensed and bonded. Under current law, an organization representative payee is only required to get one or the other.

For any month in which the Social Security Commissioner or the courts have determined that an organizational representative payee misused all or part of an individual's benefits he or she would be required to forfeit the fees. The legislation would also make the representative payee liable for any misused benefits.

Ms. Byrd's story demonstrates there is a need for stronger safeguards to protect the elderly and disabled who require an organizational representative payee. I urge my colleagues to cosponsor this important legislation and help protect the most vulnerable Social Security beneficiaries.

By Mr. LEAHY (for himself, Mr. BENNETT, Mr. LIEBERMAN, Mr. DODD, Mr. COCHRAN, Mrs. LINCOLN, Mr. REID, and Mr. DOMENICI):

S. 694. A bill to amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor; to the Committee on Finance.

Mr. LEAHY. Mr. President, I rise today to introduce legislation, the Artist-Museum Partnership Act, to enable our country to keep cherished art works in the United States and to preserve them in our public institutions, while erasing an inequity in our tax code that currently serves as a disincentive for artists to donate their works to museums and libraries. This is the same bill I introduced last year with my colleagues Senator BENNETT and Senator LIEBERMAN. I would like to thank them for their leadership in this area and also to thank Senators DODD, COCHRAN, LINCOLN, REID, and DOMENICI for cosponsoring this bipartisan bill.

In a nutshell, our bill would allow artists, writers and composers who donate works to museums and libraries to take a tax deduction equal to the fair market value of the work. This is something that collectors who make similar donations are already able to do. If we as a nation want to ensure that art works created by living artists are available to the public in the future, for study or for pleasure, it is something that artists should be allowed to do as well. Under current law, artists who donate self-created works are only able to deduct the cost of supplies such as canvas, pen, paper, ink, which does not even come close to their true value. This is unfair to artists and it hurts museums and libraries, large and small, that are dedicated to preserving works for posterity.

In my State of Vermont, we are incredibly proud of the great works produced by hundreds of local artists who choose to live and work in the Green Mountain State. Displaying their creations in museums and libraries helps develop a sense of pride among Vermonters and strengthens a bond with Vermont, its landscape, its beauty and its cultural heritage. Anyone who has gazed at a painting in a museum or examined an original manuscript or composition, and has gained a greater understanding of both the artist and the subject as a result, knows the tremendous value of these works. I would like to see more of them, not fewer, preserved in Vermont and across the country.

Prior to 1969, artists and collectors alike were able to take a deduction equivalent to the fair market value of a work, but Congress changed the law with respect to artists in the Tax Reform Act of 1969. Since then, fewer and fewer artists have donated their works to museums and cultural institutions. The sharp decline in donations to the Library of Congress clearly illustrates this point. Until 1969, the Library of Congress received 15 to 20 large gifts of manuscripts from authors each year. In the four years following the elimination of the deduction, the library received only one such gift. Instead, many of these works have been sold to private collectors, and are no longer available to the general public.

For example, prior to the enactment of the 1969 law, Igor Stravinsky planned to donate his papers to the Music Division of the Library of Congress. But after the law passed, his papers were sold instead to a private foundation in Switzerland. We can no longer afford this massive loss to our cultural heritage. This loss was an unintended consequence of the tax bill that should now be corrected.

More than 30 years ago, Congress changed the law for artists in response to the perception that some taxpayers were taking advantage of the law by inflating the market value of self-created works. Since that time, however, the government has cut down significantly on the abuse of fair market value determinations. Under this legislation, artists who donate their own paintings, manuscripts, compositions, or scholarly compositions, would be subject to the same new rules that all taxpayer/collectors who donate such works must now follow. This includes providing relevant information as to the value of the gift, providing appraisals by qualified appraisers, and, in some cases, subjecting them to review by the Internal Revenue Service's Art Advisory Panel.

In addition, donated works must be accepted by museums and libraries, which often have strict criteria in place for works they intend to display. The institutions must also certify that it intends to put the work to a use that is related to the institution's tax exempt status. For example, a painting contributed to an educational institution must be used by that organization for educational purposes. It could not be sold by the institution for profit. Similarly, a work could not be donated to a hospital or other charitable institution that did not intend to use the work in a manner related to the function constituting the donee's exemption under Section 501 of the tax code. Finally, the fair market value of the work could only be deducted from the portion of the artist's income that has come from the sale of similar works, or related activities.

This bill would also correct another disparity in the tax treatment of self-created works—how the same work is treated before and after an artist's death. While living artists may only deduct the material costs of donations, donations of those same works after death are deductible from estate taxes at the fair market value of the work. In addition, when an artist dies, works that are part of his or her estate are taxed on the fair market value.

Last year, the Joint Committee on Taxation estimated that our bill would cost $48 million over 10 years. This is a moderate price to pay for our education and the preservation of our cultural heritage. The time has come for us to correct an unintended consequence of the 1969 law and encourage rather than discourage the donations of art works by their creators. This bill could, and I believe would, make a critical difference in an artist's decision to donate his or her work, rather than sell it to a private party, where it may become lost to the public forever.

I want to thank my colleagues again for cosponsoring this bipartisan legislation. I also ask unanimous consent to have printed in the RECORD letters from the Association of Art Museum Directors, The Museum of Fine Arts, Houston, the Theatre Communications Group, Inc., and the Whitney Museum of American Art in support of this bill.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WHITNEY MUSEUM OF AMERICAN ART,
New York, NY, April 3, 2001.

Senator PATRICK LEAHY,
Senator ROBERT BENNETT,
U.S. Senate,
Washington, DC.

DEAR SENATORS LEAHY AND BENNETT: On behalf of the staff and Board of Trustees of the Whitney Museum of American Art, I thank you for introducing the ''Artist-Museum Partnership Act''. This legislation, which would allow artists, writers and composers to deduct the fair-market value of a contribution of their own work to a charitable institution, will benefit museums, and their visitors, across the country.

As a result of changes to the tax code of 1969, visual artists, writers and composers

can no longer take a deduction based on the fair-market value of a contribution of their own work. The artists' deduction is limited to the cost of materials in preparing the work—in the case of a visual artist, canvas and paint. However, a collector, making an identical donation, may take the fair-market value deduction for the work. Once the artist dies, his or her spouse may donate the work for a fair-market value deduction. In addition, works of art left to an artist's estate are evaluated at the fair-market value for purposes of determining estate taxes.

Since the 1969 repeal, contributions to museum and libraries by living artists and writers have all but disappeared, depriving the public of access to its cultural heritage. Many of these pieces are sold abroad or into private collections and never seen again.

Thank you again for your continued support of artists and arts institutions in this country. We are all deeply appreciative.

Sincerely,

MAXWELL L. ANDERSON.

THEATRE COMMUNICATIONS GROUP, INC.,
New York, NY, April 4, 2001.

Senator PATRICK LEAHY,
Senator ROBERT BENNETT,
U.S. Senate,
Washington, DC.

DEAR SENATORS LEAHY AND BENNETT: On behalf of Theatre Communications Group—the national service organization for the American theatre—and the 384 not-for-profit theatres across the country that comprise our membership and which present performances to a combined annual attendance of more than 17 million people, I thank you for introducing the ''Artist-Museum Partnership Act''. This legislation, which would allow artists, writers and composers to deduct the fair-market value of a contribution of their own work to a charitable institution, is fully supported by Theatre Communications Group, which endorses its passage.

As a result of changes to the tax code of 1969, visual artists, writers and composers can no longer take a deduction based on the fair-market value of a contribution of their own work. The artists' deduction is limited to the cost of materials in preparing the work—in the case of a visual artist, canvas and paint. However, a collector, making an identical donation, may take the fair-market value deduction for the work. Once the artist dies, his or her spouse may donate the work for a fair-market value deduction. In addition, works of art left to an artist's estate are evaluated at the fair-market value for purposes of determining estate taxes.

Since the 1969 repeal, contributions to museums and libraries by living artists and writers have all but disappeared, depriving the public of access to its cultural heritage. Many of these pieces are sold abroad or into private collections and never seen again.

Thank you again for your continued support of artists and arts institutions in this country.

Sincerely,

BEN CAMERON,
Executive Director.

ASSOCIATION OF ART MUSEUM DIRECTORS,
New York, NY, April 4, 2001.

Senator PATRICK LEAHY,
Senator ROBERT BENNETT,
U.S. Senate
Washington, DC.

DEAR SENATORS LEAHY and BENNETT: On behalf of the Association of Art Museum Directors (AAMD), founded in 1916 and representing 170 art museums nationwide, I thank you for introducing the ''Artist-Museum Partnership Act''. This legislation, which would allow artists, writers and composers to deduct the fair-market value of a contribution of their own work to a charitable institution, is fully supported by the AAMD, which endorses its passage.

As a result of changes to the tax code of 1969, visual artists, writers and composers can no longer take a deduction based on the fair-market value of contribution of their own work. The artists' deduction is limited to the cost of materials in preparing the work—in the case of a visual artist, canvas and paint. However, a collector, making an identical donation, may take the fair-market value deduction for the work. Once the artist dies, his or her spouse may donate the work for a fair-market value deduction. In addition, works of art left to an artist's estate are evaluated at the fair-market value for purposes of determining estate taxes.

Since the 1969 repeal, contributions to museum and libraries by living artists and writers have all but disappeared, depriving the public of access to its cultural heritage. Many of these prices are sold abroad or into private collections and never seen again.

Thank you again for your continued support of artists and arts institutions in this country.

Sincerely,

MILLICENT HALL GAUDIERI,
Executive Director.

THE MUSEUM OF FINE ARTS, HOUSTON,
Houston, TX, March 28, 2001.

Senator ROBERT BENNETT,
Senator PATRICK LEAHY,
U.S. Senate
Washington, DC.

DEAR SENATORS BENNETT AND LEAHY: On behalf of the Trustees of the Museum of Fine Arts, Houston, I would like to express my appreciation to you for introducing the ''Artist-museum Partnership Act.'' The legislation is long overdue and will be useful to museums in soliciting original works of art from artists. May museums do not have funds to purchase art and must rely on donations. Since 1969, when the law was repealed that allowed artists to take a fair-market value deduction, contributions from living artists to museums has dramatically decreased.

Many important works by regional or ethnic artists are sold rather than donated because the majority of artists simply cannot afford to donate their works when they can only take a deduction equal to the cost of materials. The bill you have drafted is an important step in helping small and mid-sized museums add these works to their collections for the public to enjoy.

Thank you again for this thoughtful piece of legislation.

Sincerely,

PETER C. MARZIO,
Director.

Mr. BENNETT. Mr. President, I am proud to join the Senator from Vermont today to introduce the Artist-Museum Partnership Act. This important legislation will remove an unfortunate inequity in our tax code by allowing living artists to deduct the fair-market value of their art work when they contribute the work to museums or other public institutions.

As the tax code is currently written, art collectors are allowed to deduct the fair market value of any piece of art donated to a museum. At the same time, if the artist who created that work of art were to donate the same piece, he or she would be allowed to deduct only the material cost of the work, which may be nothing more than a canvas, a tube of paint, and a wooden frame. This inequity has created a disincentive for artists who would otherwise donate their work to museums. The solution is simple: treat collectors and artists the same way. This bill will do just that.

While this bill will certainly help artists, the real beneficiaries are museums, historians, and most importantly, the general public. This change in the tax code will increase the number of original pieces donated to public institutions, giving scholars greater access to an artist's work during the lifetime of that artist, as well as providing for an increase in the public display of such work. Museum-goers will have a greater opportunity to learn not only from the master artists of past centuries, but also from artists who are at the forefront of their fields today.

I want to thank Senator LEAHY for his work on this bill. He and I have introduced similar legislation in the past, and we hope that our colleagues will see this bill for what it is a reasonable solution to an unintentional inequity in our tax code. I urge my colleagues to support this common-sense legislation. The fiscal impact of the Artist-Museum Partnership Act on the federal budget will be minimal, but the benefit to our nation's cultural and artistic heritage cannot be overstated. This minor correction to the tax code is long overdue, and the Senate should act on this legislation to remedy the problem.

By Mr. DORGAN (for himself, Mr. BINGAMAN, and Mr. BYRD):

S. 695. A bill to provide parents, taxpayers, and educators with useful, understandable school report cards; to the Committee on Health, Education, Labor, and Pensions.

Mr. DORGAN. Mr. President, today I am introducing the Standardized School Report Card Act, along with Senators BINGAMAN and BYRD.

Every six to nine weeks, schools all across the country send parents report cards evaluating how their child is doing. Rarely, however, do parents ever get any sense of how their child's school is performing. And let's face it: The two are inextricably linked. It is not as meaningful for a child to be among the best in his or her school if the school itself is among the worst.

As a parent of two children in public school, I believe it is very important for parents, taxpayers, teachers, and the public to have some way of measuring how their school is performing, relative to other schools in the area, the state, the country, and even the world. The legislation I am introducing today along with Senators BINGAMAN and BYRD would give parents and taxpayers an important tool for evaluating how their school is doing.

Our legislation would require that schools and states develop an annual, easily understandable report card and widely disseminate it to parents, taxpayers, teachers, and the public.

I am pleased that the concept of school report cards has bipartisan support. President Bush called for school-by-school report cards on student achievement in his ''No Child Left Behind'' education plan. In addition, Senator DASCHLE and the others have provided for school report cards in S. 10, the Educational Excellence for All Learners Act. And the Better Education for Students and Teachers Act, which was reported by the Senate Committee on Health, Education, Labor, and Pensions, includes some limited school report card language that I think can form the basis for helpful reports for parents and taxpayers.

The Standardized School Report Card Act that I am introducing today would require schools and states to cover eight key, basis areas in their report cards, plus any other areas of indicators of quality they want to include. The eight subject areas schools would be ''graded'' on are: Student performance; attendance, graduation and dropout rates; professional qualifications of teachers; average class size; school safety; parental involvement; student access to technology; and whether they have been identified by the State for improvement. These eight areas were chosen largely because they were the ones parents themselves said they felt were most critical, in focus groups around the country conducted by the Center for Community Change.

Some might say this legislation is unnecessary. After all, according to Education Week, 36 states already require schools to publish a school report card. In addition, the Congressional Research Services has looked at the kinds of data that states already require their schools to report and/or collect. According to the CRS, 47 states have ''report cards'' in at least one of the eight areas specified by the Standardized School Report Card Act.

However, the content of these report cards varies widely. In fact, according to a report by Education Week, no two state report cards cover exactly the same information, so they cannot be a useful tool for parents and educators to compare their school with other schools in the state or nation.

For instance, in my state of North Dakota, the state Department of Public Instruction has designed a ''school district profile'' that is published for each school district in the state. These profiles include lots of interesting and helpful information, including a lot of data not required by my legislation. However, there is also some valuable data missing from this report that parents would want to know about, such as the number of teachers who have emergency certification or the incidents of school violence.

By requiring all schools to report on at least these eight key areas, my school report card legislation will provide parents with the ability to measure how their school is doing relative to other schools.

Schools will also have to be sure that they widely disseminate their report cards. According to Education Week, most people have never seen a report card for their local school, even though 90 percent think a school report card would be helpful.

This legislation is not about the Federal government wresting control of education away from local school boards, where it belongs. Rather, it is about whether parents, no matter where they live, have an opportunity and the ability to measure how well their children are doing from community to community, school to school, state to state?

As a nation, we spend more than $375 billion annually to provide an education to our elementary and secondary children. Parents and taxpayers deserve to know what we are getting for the money we are spending on K–12 education.

Those in this country who are concerned about our education system know that we must make some improvements. How do we make improvements? You create a blueprint, a plan, for fixing what is wrong. But before you can do that, you must first assess what is right and what is wrong. And we do not have a basic approach by which parents can measure what is right or wrong with their local school.

The lack of obtainable, understandable information is a major barrier to parents' more active involvement in the education of their children. In Georgia, the number of schools developing local school improvement plans increased by 300 percent following the first publication of report cards in 1996. I feel strongly that's because parents will hold their schools accountable if they have the information they need to determine whether improvements are needed.

Times have changed. This is not 40 years ago when we as a country could tie one hand behind our back and beat anybody else in the world at almost anything, and do it easily. We now face shrewd, tough international competition in every direction we look. We now face competition in the job market, in our economies, and in our schools. Our children compete with countries that send their kids to school 240 days a year, while we send our kids to school 180 days a year.

In short, parents have a right to know whether their kids are receiving a quality education, no matter what State they live in, no matter what city or school district they live in. I encourage my colleagues to cosponsor this legislation. When the Senate begins debate on the Better Education for Students and Teachers Act, I intend to work with my colleagues on both sides of the aisle to strengthen the school report card provisions already in the Senate bill.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 695

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Standardized School Report Card Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) According to the report ''Quality Counts 99'', by Education Week, 36 States require the publishing of annual report cards on individual schools, but the content of the report cards varies widely.

(2) The content of most of the report cards described in paragraph (1) does not provide parents with the information the parents need to measure how their school or State is doing compared with other schools and States.

(3) Ninety percent of taxpayers believe that published information about individual schools would motivate educators to work harder to improve the schools' performance.

(4) More than 60 percent of parents and 70 percent of taxpayers have not seen an individual report card for their area school.

(5) Dissemination of understandable information about schools can be an important tool for parents and taxpayers to measure the quality of the schools and to hold the schools accountable for improving performance.

SEC. 3. PURPOSE.

The purpose of this Act is to provide parents, taxpayers, and educators with useful, understandable school report cards.

SEC. 4. DEFINITIONS.

The terms used in this Act have the meanings given the terms under section 14101 of the Elementary and Secondary Education Act of 1965.

SEC. 5. REPORT CARDS.

(a) STATE REPORT CARDS.—Each State educational agency receiving assistance under the Elementary and Secondary Education Act of 1965 shall produce and widely disseminate an annual report card for parents, the general public, teachers and the Secretary of Education, in easily understandable language, with respect to elementary schools and secondary schools in the State. The report card shall contain information regarding—

(1) student performance on statewide assessments in language arts, mathematics, and history, plus any other subject areas in which the State requires assessments, including—

(A) comparisons with students from different school districts within the State, and, to the extent possible, comparisons with students throughout the Nation;

(B) a statement on the 3-year trend in the percentage of students performing at the basic, proficient, and advanced levels; and

(C) a statement of the percentage of students not tested and a listing of categories of the reasons why such students were not tested;

(2) attendance and 4-year graduation rates, the number of students completing advanced placement courses, and the annual school dropout rate, as calculated by procedures conforming with the National Center for Education Statistics Common Core of Data;

(3) professional qualifications of teachers in the State, including the percentage of class sections taught by teachers who are not certified to teach in that subject, and the percentage of teachers with emergency or provisional certification;

(4) average class size in the State broken down by school level;

(5) school safety, including the safety of school facilities, incidents of school violence

and drug and alcohol abuse, and the number of instances in which a student was determined to have brought a firearm to school under the State law described in the Gun-Free Schools Act of 1994 and the incidence of student suspensions and expulsions;

(6) to the extent practicable, parental involvement, as measured by the extent of parental participation in school parental involvement policies described in section 1118(b) of the Elementary and Secondary Education Act of 1965;

(7) student access to technology, including the number of computers for educational purposes, the number of computers per classroom, and the number of computers connected to the Internet;

(8) information regarding the schools identified by the State for school improvement; and

(9) other indicators of school performance and quality.

(b) SCHOOL REPORT CARDS.—Each school receiving assistance under the Elementary and Secondary Education Act of 1965, or the local educational agency serving that school, shall produce and widely disseminate an annual report card for parents, the general public, teachers and the State educational agency, in easily understandable language, with respect to elementary or secondary education, as appropriate, in the school. The report card shall contain information regarding—

(1) student performance in the school on statewide assessments in language arts, mathematics, and history, plus any other subject areas in which the State requires assessments, including—

(A) comparisons with other students within the school district, in the State, and, to the extent possible, in the Nation;

(B) a statement on the 3-year trend in the percentage of students performing at the basic, proficient, and advanced levels; and

(C) a statement of the percentage of students not tested and a listing of categories of the reasons why such students were not tested;

(2) attendance and 4-year graduation rates, the number of students completing advanced placement courses, and the annual school dropout rate, as calculated by procedures conforming with the National Center for Education Statistics Common Core of Data;

(3) professional qualifications of the school's teachers, including the percentage of class sections taught by teachers not certified to teach in that subject, and the percentage of teachers with emergency or provisional certification;

(4) average class size in the school broken down by school level, and the enrollment of students compared to the rated capacity of the school;

(5) school safety, including the safety of the school facility, incidents of school violence and drug and alcohol abuse, the number of instances in which a student was determined to have brought a firearm to school under the State law described in the Gun-Free Schools Act of 1994, and the incidence of student suspensions and expulsions;

(6) parental involvement, as measured by the extent of parental participation in school parental involvement policies described in section 1118(b) of the Elementary and Secondary Education Act of 1965;

(7) student access to technology, including the number of computers for educational purposes, the number of computers per classroom, and the number of computers connected to the Internet;

(8) information regarding whether the school has been identified for school improvement; and

(9) other indicators of school performance and quality.

(c) MODEL SCHOOL REPORT CARDS.—The Secretary of Education shall use funds made available to the Office of Educational Research and Improvement to develop a model school report card for dissemination, upon request, to a school, local educational agency, or State educational agency.

(d) DISAGGREGATION OF DATA.—Each State educational agency or school producing an annual report card under this section shall disaggregate the student data reported under subsection (a) or (b), as appropriate, in the same manner as results are disaggregated under section 1111(b)(3)(I) of the Elementary and Secondary Education Act of 1965.

(e) DISSEMINATION AND ACCESSIBILITY OF REPORT CARDS.—

(1) STATE REPORT CARDS.—State annual report cards under subsection (a) shall be disseminated to all elementary schools, secondary schools, and local educational agencies in the State, and made broadly available to the public through means such as posting such reports on the Internet and distribution to the media, and through public agencies.

(2) LOCAL AND SCHOOL REPORT CARDS.—Local educational agency report cards and elementary school and secondary school report cards under subsection (b) shall be disseminated to all elementary schools and secondary schools served by the local educational agency and to all parents of students attending such schools, and shall be made broadly available to the public through means such as posting such report on the Internet and distribution to the media, and through public agencies.

(f) GRANTS AUTHORIZED.—The Secretary of Education shall award a grant to each State having a State report card that meets the requirements of subsection (a) to enable the State to annually publish report cards for each elementary and secondary school that receives funding under the Elementary and Secondary Education Act of 1965 and is served by the State. The amount of a State grant under this section shall be equal to the State's allotment under subsection (g)(2).

(g) RESERVATIONS AND ALLOTMENTS.—

(1) RESERVATIONS.—From the amount appropriated under subsection (j) to carry out this Act for each fiscal year the Secretary of Education shall reserve—

(A) ½ of 1 percent of such amount for payments to the Secretary of the Interior for activities approved by the Secretary of Education consistent with this Act, in schools operated or supported by the Bureau of Indian Affairs on the basis of their respective needs for assistance under this Act; and

(B) ½ of 1 percent of such amount for payments to outlying areas, to be allotted in accordance with their respective needs for assistance under this Act, as determined by the Secretary of Education, for activities approved by the Secretary of Education that are consistent with this Act.

(2) STATE ALLOTMENTS.—From the amount appropriated under subsection (j) for a fiscal year and remaining after amounts are reserved under paragraph (1), the Secretary of Education shall allot to each State having a State report card meeting the requirements of subsection (a) an amount that bears the same relationship to such remainder as the number of public school students enrolled in elementary schools and secondary schools in the State bears to the total number of such students so enrolled in all States.

(h) WITHIN-STATE ALLOCATIONS.—Each State educational agency receiving a grant under subsection (f) shall allocate the grant funds that remain after carrying out the activities required under subsection (e)(1) to local educational agencies in the State.

(i) STATE RESERVATION OF FUNDS.—Each State educational agency receiving a grant under subsection (f) may reserve —

(1) not more than 10 percent of the grant funds to carry out activities described in subsections (a) and (b), and subsection (e)(1), for fiscal year 2002; and

(2) not more than 5 percent of the grant funds to carry out activities described in sections (a) and (b), and subsection (e)(1), for fiscal year 2003 and each of the 3 succeeding fiscal years.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this Act, $5,000,0000 for fiscal year 2002, and such sums as may be necessary for each of the 4 succeeding fiscal years.

By Mr. BROWNBACK:

S. 696. A bill to prohibit the Federal Communications Commission from applying spectrum aggregation limits to spectrum assigned by auction after 2000; to the Committee on Commerce, Science, and Transportation.

Mr. BROWNBACK. Mr. President, today I rise to reintroduce the Third Generation Wireless Internet Act. This legislation, which I first introduced in the 106th Congress, is needed today more then ever. The Act requires The Federal Communications Commission (FCC) to lift the current cap on the amount of spectrum any one company may be licensed to use in a market.

Today, over 104 million Americans are benefitting from the products and services being offered by our nation's wireless industry. The public has benefited from stiff competition among industry participants as 244.8 million Americans can choose between three and eight wireless service providers, with 181.7 million of them able to choose from at least five service providers. The result of this competition has been a fifty percent decrease in wireless rates between 1988 and 2000, while the total number of minutes used has increased forty-two percent over that same period.

Impressive as is the development of the wireless marketplace, our nation's wireless industry is fast approaching a crossroads where it will transition from voice and text messaging services to a marriage of wireless mobility with the power of the Internet and broadband Internet access: the ability to deliver voice, video, and data simultaneously over one wireless device. This transition will be made possible by the deployment of third generation technology, commonly referred to as ''3G,'' which combines wireless mobility with transmission speeds and capacity resembling that of the broadband pipes being laid primarily in urban markets by wireline companies.

Congress, the FCC, and the National Telecommunications and Information Administration continue to work to identify sufficient spectrum resources for a timely 3G deployment. The Third Generation Wireless Internet Act will ensure that companies currently at the limits of the spectrum they are permitted to use under FCC regulations will still be able to participate in 3G deployment once the spectrum is identified.

Just as Internet access, especially broadband Internet access, promises to

be a great equalizer across socio-economic lines, 3G promises to be a great equalizer between those consumers with access to broadband and those without. As Congress continues to look for ways to close the digital divide as it relates to broadband, wireless technology can play a key role in ensuring that all Americans have access to broadband irrespective of their geographic location. It is incumbent upon Congress to recognize and act upon the potential of 3G to close the gap between urban and rural broadband access, and the Third Generation Wireless Internet Act does just that.

I request that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows;

S. 696

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Third-Generation Wireless Internet Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Mobile telephony has been one of the fastest growing industries of the telecommunications sector, offering consumers innovative services at affordable rates.

(2) Demand for mobile telecommunications services has greatly exceeded industry expectations.

(3) Mobile carriers are poised to bring high-speed Internet access to consumers through wireless telecommunications devices.

(4) Third Generation mobile systems (hereinafter referred to as ''3G'') are capable of delivering high-speed data services for Internet access and other multimedia applications.

(5) Advanced wireless services such as 3G may be the most efficient and economic way to provide high-speed Internet access to rural areas of the United States.

(6) Under the current Federal Communications Commission rules, commercial mobile service providers may not use more than 45 megahertz of combined cellular, broadband Personal Communications Service, and Specialized Mobile Radio spectrum within any geographic area.

(7) Assignments of additional spectrum may be needed to enable mobile operators to keep pace with the demand for 3G services.

(8) The application of the current Commission spectrum cap rules to new spectrum auctioned by the FCC would greatly impede the deployment of 3G services.

SEC. 3. WIRELESS TELECOMMUNICATIONS SERVICES.

Section 332(c) of the Communications Act of 1934 (47 U.S.C. 332(c)) is amended by adding at the end thereof the following:

''(9) NON-APPLICATION OF SPECTRUM AGGREGATION LIMITS TO NEW AUCTIONS.—

''(A) The Commission may not apply section 20.6(a) of its regulations (47 C.F.R. 20.6(a)) to a license for spectrum assigned by initial auction held after December 31, 2000.

''(B) The Commission may relax or eliminate the spectrum aggregation limits of section 20.6 of its regulations (47 C.F.R. 20.6), but may not lower these limits.''.

By Mr. HATCH (for himself, Mr. BAUCUS, Mr. HAGEL, Mr. ROCKEFELLER, Mr. CRAIG, Mr. BINGAMAN, Mr. CRAPO, Mrs. LINCOLN, Mr. BROWNBACK, Mr. TORRICELLI, Mr. WARNER, Mr. CONRAD, Mr. ROBERTS, Mr. KERRY, Mr. SMITH of Oregon, Mr. DASCHLE, Ms. COLLINS, Mr. BREAUX, Mr. HUTCHINSON, Ms. MILKULSKI, Ms. LANDRIEU, Mr. CARPER, Mr. CLELAND, Mr. SCHUMER, Mr. DORGAN, Mr. BIDEN, Mrs. CARNAHAN, Mr. NELSON of Nebraska, Ms. STABENOW, Mr. WELLSTONE, Mr. DAYTON, Mr. SARBANES, Mr. DURBIN, Mr. BAYH, and Mr. MILLER):

S. 697. A bill to modernize the financing of the railroad retirement system and to provide enhanced benefits to employees and beneficiaries; to the Committee on Health, Education, Labor, and Pensions.

Mr. HATCH. Mr. President, on behalf of myself, Senator BAUCUS, and 18 other of our colleagues, I rise today to introduce the Railroad Retirement and Survivors' Improvement Act of 2001. This bill represents an important opportunity in the 65-year history of the Railroad Retirement system. Rail labor and rail management, working together, developed a proposal that would build on the system's strengths to modernize Railroad Retirement to provide better, more secure benefits at a lower cost to employers and employees. This proposal was further refined as a result of extensive discussions last year between rail labor and management and the congressional committees of jurisdiction.

The bill we are introducing today builds on our efforts in the 106th Congress to reform the Railroad Retirement system. Last year, the predecessor to this bill, H.R. 4844, passed the House by a vote of 391–25, and received similar bipartisan support in the Senate. Eighty senators signed a letter urging quick passage of the legislation, and on September 28, 2000, it was favorably reported by the Finance Committee. H.R. 4844 was placed on the Senate legislative calendar, but unfortunately, this is where the bill remained. Despite an overwhelming majority of Members in both houses in support of the bill, time ran out and the 106th Congress adjourned without this bill being brought up on the Senate floor.

Both rail labor and rail management have come to the Congress to seek changes to their pension plan because Railroad Retirement is a unique system. It is the only private industry pension plan established in statute and administered by the federal government. As such, any changes in Railroad Retirement can be made only through legislative action. Historically, such legislation has reflected negotiated agreement by management and labor with the Congress followed by congressional consideration and enactment of necessary statutory changes. The legislation we introduce today continues this practice and embodies the reform principles agreed to by rail management and the vast majority of rail labor this past year.

Some may ask, why reform the Railroad Retirement system at this time? Railroad Retirement has served railroad workers, their families, and their surviving spouses well for 65 years. Its roots reach back to the struggle to find answers to the hardships that resulted from the Great Depression of the 1930s. Today, the Railroad Retirement system is fiscally strong, providing benefit payments to more than 673,000 retirees and other beneficiaries. The most recent report to Congress by the Railroad Retirement Board's chief actuary, which addressed the 2000–2073 period, indicated that no cash-flow problems are expected to arise over that period. This strength, combined with the willingness of rail labor and rail management to work together constructively, provides an opportunity to address a number of concerns about Railroad Retirement that have developed in recent years.

First, Railroad Retirement is very costly, both to employers and employees. It has two components: Tier I, which is largely equivalent to Social Security, and Tier II, which provides additional benefits and is similar to a private, defined benefit pension plan. Tier I and Tier II are funded primarily through payroll taxes on employers and employees—15.3 percent combined for Tier I, including Medicare, and 21 percent for Tier II. Together, these payroll taxes make up a staggering 36.3 percent of taxable payroll, a figure substantially higher than the cost other industries face to provide retirement benefits to their employees. This high cost represents a major financial burden to both employees and employers. Perhaps worse still, it constitutes a major disincentive for employers to hire new employees under Railroad Retirement.

A second factor that led to the development of this legislation is the adequacy of the Railroad Retirement benefit structure. One special area of concern among retirees has been the widow's and widower's benefit under the Tier II portion of Railroad Retirement. Indeed, this was the subject of a 1998 hearing by the Ground Transportation Subcommittee of the House Transportation and Infrastructure Committee. That hearing was a spur to rail management and rail labor to engage in discussions about a broad range of issues affecting the system.

Let me explain the reasons why this bill has the strong support of railroad retirees, railroad management, and the great majority of rail labor.

First, it provides for increased responsibility by the railroad industry for the financial health of Railroad Retirement. Under current law, if changes in tax rates or benefits are needed to assure the financial health of the system, Congress is required to pass new legislation. The bill being introduced today would make Tier II tax rates more responsive to actual financing needs by establishing an automatic tax adjustment schedule. Under this statutory schedule, payroll taxes would be

raised or lowered automatically, without any further action by Congress, depending on the level of funds available to pay Railroad Retirement benefits. The schedule is designed to maintain a minimum balance of 4 years of benefit payments and a maximum balance of 6 years. The four year minimum reserve balance represents a higher balance than has existed in the Railroad Retirement Account (RRA) for most of the past 40 years. Rail employers have agreed to bear entirely any tax schedule increases—employees and employers would share any tax decreases that might occur. Employees would have the option of seeking congressional action to convert any planned decrease in the employee tax rate to a benefit increase, and management has agreed to support such action.

Second, the bill provides for greater flexibility in the investment of Railroad Retirement assets. This investment provision would apply only to Tier II, the portion of the program that is similar to a private pension plan and is funded entirely from industry sources. Tier I, the portion that is similar to Social Security and is linked to the Social Security system, would not be affected.

Currently, investment of RRA assets is limited by law to U.S. Government securities. Actuarial projections for the RRA assume an annual return of 6 percent on investments. Between 1985 and 1998, the average annual return on RRA investments was unusually high at 9.12 percent, but this still lagged far behind the average annual return to large multi-employer pension plans of 15.17 percent over the same period. The differential in returns between RRA investments and private pension plan investment portfolios contributes significantly to the high cost of funding the benefits provided from the RRA.

This bill would provide the authority for the industry assets in the RRA to be invested in a diversified investment portfolio, as are the assets of private sector retirement plans. In the process of developing this proposal, concerns were raised by some Members of Congress that this aspect of the legislation could result in government intrusion into the equity markets. While the funds that would be invested are, in effect, railroad industry pension funds which, through historical circumstance, have been maintained in a government account, we have included a provision to draw a bright line distinction from current investment practice.

The Congressional Committees of jurisdiction worked with labor and management last year to create a new structure that separates the new investment activity from the Railroad Retirement Account. This structure has been included in the legislation we introduce today. It would establish a new Railroad Retirement Investment Trust (RRIT), whose exclusive purpose would be the investment of RRA assets entrusted to it by the Railroad Retirement Board (RRB). The RRIT would not be an agency or instrumentality of the federal government. RRA assets would be transferred to the RRIT for investment and from the RRIT to a centralized disbursement agent that would pay the various components of the aggregate railroad retirement benefit in a single check to beneficiaries.

The RRIT would have seven trustees chosen by the Railroad Retirement Board: three representing labor, three representing management and one representing the public interest. Trustees of the RRIT would be required to have experience and expertise in the management of financial investments and pension plans, and would be subject to fiduciary standards similar to those required by ERISA. The RRIT trustees would set investment guidelines for the prudent management of the assets entrusted to it, and select outside investment advisors and managers to implement its policies. Earnings on RRIT investments would be available only for the purpose of paying Railroad Retirement benefits and necessary expenses of the RRIT. I believe that these measures will allow for increased returns on the industry's pension plan while building an effective firewall between the government and the private markets.

Third, this legislation would improve benefits for retirees and their families. In particular, it would resolve the concern regarding the benefit for widows and widowers under Tier II. Under current law, while the retired employee is alive, the couple receives a Tier II benefit equal to 145 percent of the retiree's benefit—the retiree's benefit plus a spousal benefit of 45 percent of the retiree's benefit. When the retiree dies, the spouse is left with a Tier II benefit of 50 percent of the retiree's benefit—a reduction of almost two-thirds. Under this bill, the surviving spouse would receive a Tier II benefit equal to that received by the retiree, preventing such a drastic reduction in survivor income.

Also of key importance is a reduction in the current early retirement age of 62 with 30 years of service to age 60 with 30 years of service. This would return the age at which a railroad employee can retire with full benefits to what it was prior to 1984. It is significant that rail labor and rail management have agreed to revise their national collective bargaining agreement to conform the age of eligibility for retiree health benefits to 60, if this legislation is passed. There are also two other benefit improvements: the vesting requirement would be lowered from 10 to 5 years, a change which would align Railroad Retirement with current private industry pension practices; and the bill would also eliminate an arbitrary cap on Tier II benefits, known as the ''Railroad Retirement Maximum'', which can result in retirees and their spouses having their earned benefits substantially reduced.

Fourth, Tier II payroll tax rates would be reduced for employers. Railroad employers currently pay 16.1 percent of taxable payroll into the RRA, which, as I have mentioned, is a rate substantially higher than other industries' pension contributions. The reduction of employer taxes would be phased in over the first 3 years following enactment of the bill. Employee tax rates would continue at the current 4.9 percent. Further tax reductions for employers and tax reductions for employees would be possible as provided under the tax adjustment mechanism I have already described. In addition, the supplemental annuity tax, a 26.5 cents-per-hour tax paid entirely by rail employers, would be eliminated. Supplemental annuity benefits would continue to be paid to eligible beneficiaries.

The legislation being introduced today is nearly identical to the legislation that was reported last year by the Senate Finance Committee, with the exception of updated effective dates.

I am concerned that certain aspects of this bill have been undeservedly criticized since it was first introduced last year, and I believe it is important to put these criticisms to rest in order to avoid any further misconceptions.

First, the legislation's budget impact has been mischaracterized and overstated. Under current scoring rules, CBO is required to treat the initial purchase of private securities by the Railroad Retirement Investment Trust as a government ''outflow.'' These private securities would become an asset of the RRIT, but would not be scored as a corresponding government ''inflow'' under current budget scoring rules, a decision which, I am told, the CBO characterized as a ''close call.'' CBO further indicated that some budget experts believe that OMB's long-standing practice under ''Circular A–11'' may be ''ill-suited to purchases of financial assets that the government acquires as a way of preserving, or enhancing, the value of cash balances,'' and that they ''may consider a different budget treatment in the future.''

Simply put, even if the estimated $14.8 billion acquisition of private securities is scored as an initial outlay, the assets received in return would produce on-budget revenues in the form of interest, dividends and capital gains. Over time, these revenues will contribute to increasing future surpluses and reducing debt service. In fact, CBO estimated that after the third year under the Railroad Retirement and Survivors' Improvement Act, the program would add to the surplus in every succeeding year in ever-increasing amounts.

Second, some have expressed concern that the transfer of federal income taxes on railroad retirement benefits into the Railroad Retirement trust fund is a Government subsidy. In fact, railroad retirees, concerned about the future of Railroad Retirement, agreed in 1983 to the taxation of their benefits and the dedication of the proceeds to Railroad Retirement as a form of benefit cut to help support the long-term solvency of the program. If benefits

had been cut in the conventional way, there would be no question as to whether this would be considered a subsidy.

Third, critics' claims that this legislation relies on Social Security funds or makes any changes to Social Security reflect a total misunderstanding of the relationship between Railroad Retirement and Social Security. Since 1950 there has been a financial interchange mechanism between Railroad Retirement and the Social Security system that ensures that neither system is advantaged or disadvantaged by which system covers a worker. The current bill would make no changes to this interchange process or to Social Security. As in the past, these Tier I funds would be available to pay benefits, would be considered assets of the Railroad Retirement program, and would be limited to investments in federal government securities.

Railroad Retirement has always been a bipartisan concern. I hope that many more of our colleagues will join us in taking this opportunity to improve Railroad Retirement and the lives of its more than 673,000 beneficiaries, and that we act early to ensure that there is plenty of time in this session to accomplish this important task.

Mr. BAUCUS. Mr. President, I am pleased to join Senator HATCH as a lead cosponsor of the Railroad Retirement and Survivors' Improvement Act of 2001. The intent of this legislation is quite simple: improve the benefits of Railroad Retirement and modernize the financing of system. Many would agree that the current railroad retirement system is archaic and inequitable. As an example, one need look no further than the severe reduction in benefit payments faced by the 178,000 widows and widowers under the current policy. This is something that must be addressed promptly and the legislation we are introducing today improves survivor benefits substantially. Montana has about 6,600 railroad retirement beneficiaries and about 3,200 active rail employees. Railroads are an important industry in Montana and many Montanans count on the railroad. I am cosponsoring this legislation to make sure railroad employees, retirees and their families receive adequate benefits from a system they can count on.

This legislation has strong support from railroad companies, labor organizations, and retirees. When enacted, this legislation will provide earlier vesting and a lower minimum retirement age for railroad labor; improved benefits for widows and widowers of railroad retirees; and enhance the investment of pension contributions from rail companies and employees.

Rail labor and rail management have come to the Congress to seek changes to their pension plan because Railroad Retirement is a unique system. It is the only private industry pension plan established in statute and administered by the federal government. As such, any changes in Railroad Retirement can be made only through legislative action. Historically, such legislation has reflected negotiated agreement by management and labor followed by Congressional consideration and enactment of necessary statutory changes. This legislation continues this practice and embodies reform principles agreed to by rail management and a majority of rail labor.

I am pleased we have a significant bipartisan group of Senators joining us as original cosponsors, an indication of the broad support this legislation has earned. I also note that many of the original cosponsors are also members of the Senate Finance Committee, the committee that will receive the bill after its introduction today. I hope the committee will be able to take action on the bill soon.

Mr. ROCKEFELLER. Mr. President, I am proud to be an original cosponsor of the bipartisan Railroad Retirement and Survivors' Improvement Act 2001, and I hope to work closely with Senators HATCH and BAUCUS and the bipartisan coalition to get this legislation enacted into law this year.

In West Virginia, we have over 11,000 retirees and their families depending on railroad retirement. Almost 3,500 West Virginians are working for the railroads and will need their railroad retirement at some point in the future. Nationwide, there are about 673,000 railroad retirees and families, and about 245,000 active rail workers. They deserve a better retirement program, and I want to work with them to promote this historic package supported by both rail labor and rail management.

There can be no doubt that improving retirement benefits for railroad workers, retirees, and their families must be one of our top priorities, and I am fully supportive of that effort. Right now, it takes ten years of service before a railroad worker becomes vested in the retirement plan, while private companies covered by Employee Retirement Income Security Act, ERISA, vest their employees in just five to seven years. The need to dramatically improve benefits for widows and widowers is obvious and has gone unaddressed for too long. It is tragic to slash the benefits of the widow of a railroad retiree upon the death of her spouse, as the current policy does. I understand the importance of these and other changes in retirement benefits for workers.

Today, experts predict that the Railroad Trust Funds are solvent for the next twenty-five years, and existing policy guarantees benefits to railroad retirees and their families. Under the new plan, the railroads would pay a lower sum of taxes into the Railroad Retirement Trust Funds, but the fund would create an investment board to invest its reserves in private equities so the increased rate of returns would cover the expanded benefits. Under the plan, there is a provision to increase railroad taxes in the future, when necessary, to fully fund the railroad retirement benefits.

As a member of the Senate Finance Committee, I want to enact legislation that will improve benefits for railroad retirees and their families, and I will be working with my colleagues to achieve that goal.

Mr. WELLSTONE. Mr. President, I am pleased to join as a cosponsor of this important legislation to modernize the investment policies of the Railroad Retirement System. This legislation reflects an historic agreement reached between rail labor and rail management. it is good for workers, good for retirees, good for widows and widowers, good for rail employers, and good for the rail industry as a whole.

This reform legislation is the product of two and a half years of negotiations and has had the grassroots support of nearly one million employees and beneficiaries who will benefit from its provisions. We came very close to enacting this measure into law at the end of the last Congress. I hope my colleagues will join me in moving the bill as expeditiously as possible.

By Mrs. BOXER (for herself and Mr. REID):

S. 698. A bill to amend the Safe Drinking Water Act to designate chromium-6 as a contaminant, to establish a maximum contaminant level for chromium-6, and for other purposes; to the Committee on Environment and Public Works.

Ms. BOXER. Mr. President, today Senator HARRY REID and I are introducing a bill for the first time ever will require the Environment Protection Agency, EPA, to set a federal standard for chromium 6 in drinking water.

The recent movie, ''Erin Brockovich'' made front page news of the substance hexavalent chromium, otherwise known as chromium 6, that until last year had only received attention from the scientific community. But Hinkley, California, the town depicted in the movie, is not the only place where chromium 6 has been found in the drinking water supply.

For example, last September, PG&E National Energy Group agreed to close down five unlined wastewater basins and two landfills at its power plants in Massachusetts because they were being sued for dumping waste contaminated with chromium 6 into these basins and landfills, endangering the safety of the groundwater.

Over one year ago in Painesville Township, Ohio, large amounts of chromium 6 were removed from a construction site. Workers at the site were replacing 2,000 feet of pipe in the sewer main when they encountered the contaminated water, which was described as ''phosphorescent yellow-green liquid.''

Chromium 6 is a chemical that is used by a variety of industries throughout the country. When improperly disposed of, chromium 6 can contaminate ground water, which is the

very same water that many communities use to supply their drinking water.

We now know for a fact that chromium 6 causes a host of serious health problems, including cancer, liver damage, kidney damage, immune system suppression, respiratory illness, skin rashes, nose bleeds and neurological damage. What we do not know is the level at which chromium 6 in drinking water causes these problems.

That is why I am introducing this bill today with my colleague Senator HARRY REID. Our bill will require the National Academy of Sciences to study the health effects of chromium 6 in drinking water and to make recommendations to the EPA on an appropriate maximum contaminant level goal. The EPA, based on these recommendations, will then list chromium 6 as a regulated contaminant under the Safe Drinking Water Act and set a federal standard for the levels of chromium 6 that can safely be found in drinking water.

This bill will also ensure that communities are able to get information about the chromium 6 levels in their drinking water from their local water supplies by applying existing right-to-know laws and will provide funding to state and local water authorities to help defray the cost of cleaning up chromium 6.

I look forward to working with my colleagues to secure passage of this vitally important health safety measure.

I ask unanimous consent that the text of the bill be printed the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 698

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MAXIMUM CONTAMINANT LEVEL FOR CHROMIUM-6.

(a) IN GENERAL.—Section 1412(b)(12) of the Safe Drinking Water Act (42 U.S.C. 300g–1(b)(12)) is amended by adding at the end the following:

''(C) CHROMIUM-6.—

''(i) DECLARATION OF CHROMIUM–6 AS CONTAMINANT.—Congress declares that chromium–6 is a contaminant subject to regulation under this title.

''(ii) STUDY.—

''(I) IN GENERAL.—Not later than 30 days after the date of enactment of this subparagraph, the Administrator shall enter into a contract with the National Academy of Sciences under which the National Academy of Sciences, not later than 1 year after the date of enactment of this subparagraph, shall complete a study to determine, and shall recommend to the Administrator, an appropriate maximum contaminant level goal for chromium–6.

''(II) ESTABLISHMENT OF MCL.—Not later than 30 days after the date on which the Administrator receives the recommendation of the National Academy of Sciences under subclause (I), the Administrator shall establish a maximum contaminant level for chromium–6 at a level consistent with that recommendation.

''(III) REPORT.—Not later than 30 days after the date on which the Administrator receives the recommendation of the National Academy of Sciences under subclause (I), the Administrator shall submit to Congress a report that describes the results of the study.

''(iii) APPLICABILITY OF OTHER LAW.—Chapter 7, and subchapter II of chapter 5, of title 5, United States Code, shall not apply to any action of the Administrator under this clause.

''(iv) REGULATION.—On and after the date of completion of the study under clause (ii), the Administrator shall regulate chromium–6 as an inorganic contaminant in accordance with part 141 of title 40, Code of Federal Regulations (or a successor regulation).''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12) is amended by striking subsection (m) and inserting the following:

''(m) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, to remain available until expended—

''(A) $599,000,000 for fiscal year 1994; and

''(B) $1,000,000,000 for each of fiscal years 1995 through 2005.

''(2) SUBSEQUENT AUTHORIZATIONS.—To the extent that any amount authorized to be appropriated under this subsection for any fiscal year is not appropriated for the fiscal year, the amount—

''(A) is authorized to be appropriated in any subsequent fiscal year before fiscal year 2004; and

''(B) shall remain available until expended.

''(3) CHROMIUM-6 COMPLIANCE.—Of the funds made available under paragraph (1)(B) for each of fiscal years 2002 through 2005, such sums as are necessary shall be made available to the Administrator to provide grants in accordance with this section to States and community water systems for use in carrying out activities to comply with section 1412(b)(12)(C).''.

By Mr. JOHNSON (for himself and Mr. DASCHLE):

S. 699. A bill to provide for substantial reductions in the price of prescription drugs for Medicare beneficiaries; to the Committee on Finance.

Mr. JOHNSON. Mr. President, I am pleased to introduce the Prescription Drug Fairness for Seniors Act of 2001, legislation that addresses the critical issue facing our older Americans—the cost of their prescription drugs. Studies have shown that older Americans spend almost three times as much of their income on health care than those under the age of 65, and more than three-quarters of Americans aged 65 and over are taking prescription drugs. Study after study has shown that seniors and others who buy their own prescription drugs, are forced to pay over twice as much for their drugs as are the drug manufactures' most favored customers, such as the federal government and large HMOs. Even more alarming is the fact that consumers in the United States pay far more for their prescription drugs than do citizens of other developed nations, resulting in price discrimination against millions of Americans. U.S. consumers are footing the bill for drug manufacturer's skyrocketing profit margins year in and year out. This is wrong and unfair.

The Prescription Drug Fairness for Seniors Act will protect senior citizens and disabled individuals from drug price discrimination and make prescription drugs available to Medicare beneficiaries at substantially reduced prices. The legislation achieves these goals by allowing pharmacies that serve Medicare beneficiaries to purchase prescription drugs at the drugs' low ''average foreign price.'' Under the bill, the ''average foreign price'' means the average price that the manufacturer realizes on drugs sold in Canada, France, Germany, Italy, Japan, and the United Kingdom. Last year, the ''reimportation'' bill had broad bipartisan support. Estimated to reduce prescription drug prices for seniors by over 40 percent, this bill will help those seniors and disabled individuals who often times have to make devastating choices between buying food or medications. Choices that no human being should have to make.

Research and development of new drug therapies is an important and necessary tool towards improving a persons quality of life. But due to the high price tag that often accompanies the latest drug therapies, seniors are often left without access to these new therapies, and ultimately, in far too many instances, without access to medication at all. This legislation is an important step towards restoring the access to affordable medications for all Medicare beneficiaries.

While this may not be the magic bullet that meets all of the long term needs of providing Medicare prescription drug coverage, it does provide a mechanism for immediate relief from rising drug costs. Working together, reaching across the aisle, we can use this time of unparalleled prosperity to do the right thing by our seniors. We should do it this year for their sake, and for the sake of the future of Medicare.

I look forward to working on this important issue in the months to come and hope that Congress will work swiftly in a bipartisan manner to enact this legislation that will benefit millions of senior citizens and disabled individuals across our nation.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 699

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Prescription Drug Fairness for Seniors Act of 2001''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Manufacturers of prescription drugs engage in price discrimination practices that compel many older Americans to pay substantially more for prescription drugs than consumers in foreign nations and the drug manufacturers' most favored customers in the United States, such as health insurers, health maintenance organizations, and the Federal Government.

(2) Older Americans who buy their own prescription drugs often pay twice as much for

prescription drugs as consumers in foreign nations and the drug manufacturers' most favored customers in the United States. In some cases, older Americans pay 10 times more for prescription drugs than such customers.

(3) The discriminatory pricing by major drug manufacturers sustains their high profits (for example, $27,300,000,000 in 1999), but causes financial hardship and impairs the health and well-being of millions of older Americans. Many older Americans are forced to choose between buying their food and buying their medicines.

(4) Foreign nations and federally funded health care programs in the United States use purchasing power to obtain prescription drugs at low prices. Medicare beneficiaries are denied this benefit and cannot obtain their prescription drugs at the lower prices available to such nations and programs.

(5) Implementation of the policy set forth in this Act is estimated to reduce prescription drug prices for many medicare beneficiaries by an average of 40 percent.

(6) In addition to substantially lowering the costs of prescription drugs for older Americans, implementation of the policy set forth in this Act will significantly improve the health and well-being of older Americans and lower the costs to the Federal taxpayer of the medicare program.

(7) Older Americans who are terminally ill and receiving hospice care services represent some of the most vulnerable individuals in our Nation. Making prescription drugs available to medicare beneficiaries under the care of medicare-certified hospices will assist in extending the benefits of lower prescription drug prices to those most vulnerable and in need.

(b) PURPOSE.—The purpose of this Act is to protect medicare beneficiaries from discriminatory pricing by drug manufacturers and to make prescription drugs available to medicare beneficiaries at substantially reduced prices.

SEC. 3. PARTICIPATING MANUFACTURERS.

(a) IN GENERAL.—Each participating manufacturer of a covered outpatient drug shall make available for purchase by each pharmacy such covered outpatient drug in the amount described in subsection (b) at the price described in subsection (c).

(b) DESCRIPTION OF AMOUNT OF DRUGS.—The amount of a covered outpatient drug that a participating manufacturer shall make available for purchase by a pharmacy is an amount equal to the aggregate amount of the covered outpatient drug sold or distributed by the pharmacy to medicare beneficiaries.

(c) DESCRIPTION OF PRICE.—The price at which a participating manufacturer shall make a covered outpatient drug available for purchase by a pharmacy is a price no greater than the manufacturer's average foreign price.

(d) ENFORCEMENT.—The United States shall debar a manufacturer of drugs or biologicals that does not comply with the provisions of this Act.

SEC. 4. SPECIAL PROVISION WITH RESPECT TO HOSPICE PROGRAMS.

For purposes of determining the amount of a covered outpatient drug that a participating manufacturer shall make available for purchase by a pharmacy under section 3, there shall be included in the calculation of such amount the amount of the covered outpatient drug sold or distributed by a pharmacy to a hospice program. In calculating such amount, only amounts of the covered outpatient drug furnished to a medicare beneficiary enrolled in the hospice program shall be included.

SEC. 5. ADMINISTRATION.

The Secretary shall issue such regulations as may be necessary to implement this Act.

SEC. 6. REPORTS TO CONGRESS REGARDING EFFECTIVENESS OF ACT.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and annually thereafter, the Secretary shall report to Congress regarding the effectiveness of this Act in—

(1) protecting medicare beneficiaries from discriminatory pricing by drug manufacturers; and

(2) making prescription drugs available to medicare beneficiaries at substantially reduced prices.

(b) CONSULTATION.—In preparing such reports, the Secretary shall consult with public health experts, affected industries, organizations representing consumers and older Americans, and other interested persons.

(c) RECOMMENDATIONS.—The Secretary shall include in such reports any recommendations the Secretary considers appropriate for changes in this Act to further reduce the cost of covered outpatient drugs to medicare beneficiaries.

SEC. 7. DEFINITIONS.

In this Act:

(1) AVERAGE FOREIGN PRICE.—

(A) IN GENERAL.—The term ''average foreign price'' means, with respect to a covered outpatient drug, the average price that the manufacturer of the drug realizes on the sale of drugs with the same active ingredient or ingredients that are consumed in covered foreign nations, taking into account—

(i) any rebate, contract term or condition, or other arrangement (whether with the purchaser or other persons) that has the effect of reducing the amount realized by the manufacturer on the sale of the drugs; and

(ii) adjustments for any differences in dosage, formulation, or other relevant characteristics of the drugs.

(B) EXEMPT TRANSACTIONS.—The Secretary may, by regulation, exempt from the calculation of the average foreign price of a drug those prices realized by a manufacturer in transactions that are entered into for charitable purposes, for research purposes, or under other unusual circumstances, if the Secretary determines that the exemption is in the public interest and is consistent with the purposes of this Act.

(2) COVERED FOREIGN NATION.—The term ''covered foreign nation'' means Canada, France, Germany, Italy, Japan, and the United Kingdom.

(3) COVERED OUTPATIENT DRUG.—The term ''covered outpatient drug'' has the meaning given that term in section 1927(k)(2) of the Social Security Act (42 U.S.C. 1396r–8(k)(2)).

(4) DEBAR.—The term ''debar'' means to exclude, pursuant to established administrative procedures, from Government contracting and subcontracting for a specified period of time commensurate with the seriousness of the failure or offense or the inadequacy of performance.

(5) HOSPICE PROGRAM.—The term ''hospice program'' has the meaning given that term under section 1861(dd)(2) of the Social Security Act (42 U.S.C. 1395x(dd)(2)).

(6) MEDICARE BENEFICIARY.—The term ''medicare beneficiary'' means an individual entitled to benefits under part A of title XVIII of the Social Security Act or enrolled under part B of such title, or both.

(7) PARTICIPATING MANUFACTURER.—The term ''participating manufacturer'' means any manufacturer of drugs or biologicals that, on or after the date of enactment of this Act, enters into a contract or agreement with the United States for the sale or distribution of covered outpatient drugs to the United States.

(8) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

SEC. 8. EFFECTIVE DATE.

The Secretary shall implement this Act as expeditiously as practicable and in a manner consistent with the obligations of the United States.

By Mr. CAMPBELL (for himself, Mr. KOHL, and Mr. HATCH):

S. 700. A bill to establish a Federal interagency task force for the purpose of coordinating actions to prevent the outbreak of bovine spongiform encephalopathy (commonly known as ''mad cow disease'') and foot-and-mouth disease in the United States; read the first time.

Mr. CAMPBELL. Mr. President, today I am joined by my friends and colleagues, Senator KOHL and Senator HATCH in introducing an expanded version of the Mad Cow Prevention Act of 2001, which we previously introduced on March 14, 2001. Our original bill would establish a federal Task Force to prevent the spread to and within the United States of Mad Cow Disease, Foot-and-Mouth Disease, and related livestock diseases. This new bill, entitled the Mad Cow and Related Diseases Prevention Act of 2001, would add the Secretary of State and the Director of the Federal Emergency Management Agency to the Task Force.

We also are invoking Rule 14 to have the bill placed directly on the Senate Calendar. We are taking this rare step because of the growing severity of this threat and testimony presented at a hearing this morning before the Senate Subcommittee on Consumer Affairs, Foreign Commerce and Tourism.

We can not take for granted that our food supply will not be tainted by Mad Cow Disease, which has infected over 175,000 cattle in Great Britain and Europe, and other livestock diseases. This is an issue that has a direct impact on my home state of Colorado, and the rest of the nation as a whole.

We need to proceed in a prudent, cautious way to do everything we can to prevent Mad Cow Disease and other devastating livestock diseases from entering and spreading in the United States. Only then can we ensure continued consumer confidence in the safety of the American food supply.

The bill we reintroduce today establishes a Federal Interagency Task Force, to be chaired by the Secretary of Agriculture, for the purpose of coordinating actions to prevent the outbreak of Mad Cow Disease. The agencies will include the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Health and Human Service, the Secretary of Treasury, the Commissioner of the Food and Drug Administration, the Director of the National Institutes of Health, the Director of the Centers for Disease Control, the Commissioner of Customs, the Secretary of State, the Director of the Federal Emergency Management Agency, and any other agencies the President deems appropriate.

No later than 60 days after the enactment of this legislation, the task force will submit to Congress a report which

will describe the actions the agencies are taking and plan to take to prevent the spread of Mad Cow and other livestock diseases and make recommendations for the future prevention of the spread of this disease to the United States. The Task Force should also consider and report on foot-and-mouth disease, chronic wasting disease and other diseases associated with our meat industries. I urge my colleagues to support its speedy passage.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 700

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Mad Cow and Related Diseases Prevention Act of 2001''.

SEC. 2. INTERAGENCY TASK FORCE.

(a) IN GENERAL.—There is established a Federal interagency task force, to be chaired by the Secretary of Agriculture, for the purpose of coordinating actions to prevent the outbreak of bovine spongiform encephalopathy (commonly known as ''mad cow disease''), foot-and mouth disease and related diseases in the United States.

(b) MEMBERSHIP.—The membership of the task force shall be composed of—

(1) the Secretary of Agriculture;

(2) the Secretary of Commerce;

(3) the Secretary of Health and Human Services;

(4) the Secretary of the Treasury;

(5) the Commissioner of Food and Drug;

(6) the Director of the National Institutes of Health;

(7) the Director of the Centers for Disease Control and Prevention;

(8) the Commissioner of Customs;

(9) the Secretary of State;

(10) the Director of the Federal Emergency Management Agency; and

(11) the heads of such other Federal departments and agencies as the President considers appropriate.

(c) REPORT.—Not later than 60 days after the date of enactment of this Act, the task force shall submit to Congress a report that—

(1) describes actions that are being taken, and will be taken, to prevent the outbreak of bovine spongiform encephalopathy, foot-and-mouth disease and related diseases in the United States; and

(2) contains any recommendations for legislative and regulatory actions that should be taken to prevent the outbreak of bovine spongiform encephalopathy, foot-and-mouth disease and related diseases in the United States.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 31—COMMENDING CLEAR CHANNEL COMMUNICATIONS AND THE AMERICAN FOOTBALL COACHES ASSOCIATION FOR THEIR DEDICATION AND EFFORTS FOR PROTECTING CHILDREN BY PROVIDING A VITAL MEANS FOR LOCATING THE NATION'S MISSING, KIDNAPPED, AND RUNAWAY CHILDREN

Mr. THOMPSON submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 31

Whereas children are the Nation's greatest asset for the future;

Whereas more than 800,000 children disappear each year in the United States, and the problem of missing, kidnapped, and runaway children potentially affects every community in the Nation;

Whereas the United States is committed to the protection of its children as essential for the Nation's strong and vital growth;

Whereas Clear Channel Communications and the American Football Coaches Association are making the United States the world leader in the protection of children by providing 60,000,000 Inkless Child Identification Kits for use by parents;

Whereas these kits allow parents to keep vital information, current photographs, and fingerprints readily available to provide to law enforcement agencies throughout the Nation in the event of an emergency; and

Whereas Clear Channel Communications and the American Football Coaches Association, through the efforts of board members, officers, employees, and subsidiary companies and the leadership of Lowry Mays, Mark Mays, and Grant Teaff, display an outstanding dedication to the children in communities throughout the Nation: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress commends Clear Channel Communications and the American Football Coaches Association for their dedication and efforts for protecting children by providing a vital means for locating the Nation's missing, kidnapped, and runaway children.

Mr. THOMPSON. Mr. President, today I rise to introduce a resolution commending Clear Channel Communications and the American Football Coaches Association, AFCA, for their efforts to protect children by providing a vital means for locating America's missing, kidnapped, and runaway children.

In 1997, the AFCA created the National Child Identification Program with a goal of fingerprinting 20 million children across the country. The AFCA began the program after discovering some startling statistics regarding missing children. The statistics showed that every year 450,000 children run away, 350,000 are abducted by a family member, and over 4,500 are abducted by a stranger. A total of 800,000 children are missing somewhere in America each year, that is one child every 40 seconds.

The National Child Identification Program provides free inkless fingerprint kits for children. These kits allow parents to take and store their child's fingerprints in their own home. If ever needed, this fingerprint record can give authorities vital information to assist them in their efforts to locate a missing child. In its first year, the AFCA distributed 2.1 million child I.D. kits at college football games across the country. To date, there have been 12 million free child I.D. kits distributed.

I am proud to say that many in Tennessee have contributed to this effort. Phil Fulmer, Head Football Coach at the University of Tennessee, has been an active participant in this program. With his help, the AFCA was able to distribute over 200,000 I.D. kits at University of Tennessee football games. Last year, Tennessee Governor Don Sundquist declared March 2000 as ''Child Identification Awareness Month'' and acknowledged that the program will affect the lives of children all over Tennessee.

Last year, Clear Channel Communications, a Texas-based media company, partnered with AFCA to raise funds to provide 60 million schoolchildren with free I.D. kits. They have committed to raising $78 million over the next three years for this effort.

This revolution gives special recognition to the American Football Coaches Association and Clear Channel Communications for their efforts. I ask my colleagues to join me in supporting this resolution.

SENATE CONCURRENT RESOLUTION 32—HONORING THE AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS FOR ITS 135 YEARS OF SERVICE TO THE PEOPLE OF THE UNITED STATES AND THEIR ANIMALS

Mr. DURBIN submitted the following concurrent resolution; which was referred to the Committee on the Judiciary.

S. CON. RES. 32

Whereas April 10, 2001, is the 135th anniversary of the founding of The American Society for the Prevention of Cruelty to Animals (''ASPCA'');

Whereas ASPCA has provided services to millions of people and their animals since its establishment in 1866 in New York City by Henry Bergh;

Whereas ASPCA was the first humane society established in the western hemisphere;

Whereas ASPCA teaches children the character-building virtues of compassion, kindness, and respect for all God's creatures;

Whereas the dedicated directors, staff, and volunteers of ASPCA have provided shelter, medical care, behavioral counseling, and placement for abandoned, abused, or homeless animals in the United States for more than a century; and

Whereas ASPCA, through its observance of April as Prevention of Cruelty to Animals Month and its promotion of humane animal treatment through programs on law enforcement, education, shelter outreach, poison control, legislative affairs, counseling, veterinary services, and behavioral training,